रजिस्ट्री सं० डी एल (एन) 04/0007/2003—05

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सं. 36] नई दिल्ली, अगस्त 29—सितम्बर 4, 2004, शनिवार/भाद्र 7—भाद्र 13, 1926
No. 36] NEW DELHI, AUGUST 29—SEPTEMBER 4, 2004, SATURDAY/BHADRA 7—BHADRA 13, 1926

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 18 अगस्त, 2004

का.आ. 2147.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2 ङ के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2003-04 से नीचे पैरा (3) में उल्लिखित उद्यम/उपक्रम को अनुमोदित करती है :

2. यह अनुमोदन इस शर्त के अधीन है कि :—

(i) उद्यम/ उपक्रम आयकर नियमावली, 1962 के नियम 2ङ के साथ पठित आयकर अधिनियम, 1961 की धारा 10 (23-छ) के उपबंधों के अनरुप होगा और उनका अनुपालन करेगा;

(ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/ उपक्रम :—

(क) आयकर नियमावली, 1962 के नियम 2ङ के स्पष्टीकरण (ख) में यथापरिभाषित पात्र कारोबार को जारी रखना बंद कर देता है; अथवा

(ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2ङ. के उप नियम (6) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है; अथवा

(ग) आयकर नियमावली, 1962 के नियम 2ङ के उप नियम (6) द्वारा यथाअपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम/ उपक्रम है :—

मैसर्स आर. वी. के. एनर्जी प्रा. लि. प्रथम मंजिल, एस.डी.ई. सीरीन चैम्बर्स, रोड सं. 7, बंजारा हिल्स, हैदराबाद-500034, केनडेपुडी गांव, पेडाना मंडल, कृष्णा जिला, आन्ध्र प्रदेश स्थित उनकी प्लांट 32.7 को मेगावाट मिन्नी पावर परियोजना के लिए।

[अधिसूचना सं. 219/2004/फा. सं. 205/176/99/आ.क.नि.-II(खंड-I)]

निधि सिंह, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 18th August, 2004

S.O. 2147.— It is notified for general information that the enterprise/undertaking, listed at para (3) below has been approved by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962 with effect from the Asstt. Year 2003-04.

2. The approval is subject to the conditions that—

(i) the enterprise/undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961, read with Rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise/undertaking:—

(a) ceases to carry on the eligible business as defined in Explanation (b) to Rule 2E of I.T. Rules, 1962; or

(b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (6) of rule 2E of the Income-tax Rules, 1962; or

(c) fails to furnish the audit report as required by sub-rule (6) of rule 2E of the Income-tax Rules, 1962.

3. The enterprise/undertaking approved is—

M/s. RVK Energy Pvt. Ltd. Ist Floor, SDE Serene Chambers, Road No. 7, Banjara Hills, Hyderabad-500034 for their project of 32.7 MW Mini Power Plant at Konkepudi Village, Pedana Mandal, Krishna District, Andhra Pradesh.

[Notification No. 219/2004/F. No. 205/176/99/ITA-II (Vol. I)]

NIDHI SINGH, Under Secy.

नई दिल्ली, 19 अगस्त, 2004

(आयकर)

का.आ. 2148.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (i) के खंड (iii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

(i) यह संगठन अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगा।

(ii) अधिसूचित संगठन प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक विवरणी प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन' न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा;

(iii) अधिसूचित संगठन केन्द्र सरकार की तरफ से नामोद्दिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में लेखा परीक्षित आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन के अधिकार के क्षेत्र में आने वाले (क) आयकर महानिदेशक (छूट) आयकर भवन, नवीं व दसवीं मंजिल, सैक्टर-3, वैशाली, गाजियाबाद (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्तूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	इलादेवी कैटैरैक्ट एण्ड इण्ट्रा अक्यूलर लेंस रिसर्च सेंटर, मार्फत रघुदीप आई क्लिनिक, गुरुकुल रोड, अहमदाबाद।	1-4-2003 से 31-3-2005

टिप्पणी— (i) उपर्युक्त शर्त (i) "संघ" के रूप में श्रेणीबद्ध संगठन पर लागू नहीं होगी।

(ii) अधिसूचित संगठन को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 224/2004/फा. सं. 203/45/2004/आयकर नि.-II]

निधि सिंह, अवर सचिव

New Delhi, the 19th August, 2004

(INCOME-TAX)

S.O. 2148.— It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of Sub-section (1) of Section 35 of the Income tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 under the category "Institution" subject to the following conditions :—

(i) The organization shall maintain separate books of account for its research activities;

(ii) The notified organization shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;

(iii) The notified organization shall submit, on behalf of the Central Government, to (a) the Director General of Income Tax (Exemption), Aayakar Bhawan, 9th & 10th Floor, Sector 3, Vaishali, Ghaziabad (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/ Director of Income Tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income-tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S.No.	Name of the organisation approved	Period for which notification is effective
1.	Illadevi Cataract and Intra Occular Lens Research Centre C/o. Reghudeep Eye Clinic, Gurukul Road, Ahmedabad.	1-4-2003 to 31-3-2005

Notes :— (i) Condition (i) above will not apply to the organization categorized as "Association"

(ii) The notified organization is advised to apply in triplicates well in advance for further renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval should also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 224/2004/F. No. 203/45/2004-ITA-II]

NIDHI SINGH, Under Secy.

नई दिल्ली, 19 अगस्त, 2004

(आयकर)

का.आ. 2149.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (I) के खंड (ii) के प्रयोजनार्थ "संघ" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

(i) संगठन अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगा;

(ii) अधिसूचित संगठन प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक विवरणी प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन' न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;

(iii) अधिसूचित संगठन केन्द्र सरकार की तरफ से नामोद्दिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) आयकर भवन, नवीं व दसवीं मंजिल, सैक्टर-3, वैशाली, गाजियाबाद (ख) सचिव वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्तूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स सर हरकिशनदास नरोत्तमदास, मेडिकल रिसर्च सोसायटी, राजा राममोहन राव रोड़ मुम्बई-400004	1-4-2003 से 31-3-2006

टिप्पणी— (i) उपर्युक्त शर्त (i) "संघ" के रूप में श्रेणीबद्ध संगठन पर लागू नहीं होगी।

(ii) अधिसूचित संगठन को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 222/2004/फा. सं. 203/22/2004/आयकर नि.-II]

निधि सिंह, अवर सचिव

New Delhi, the 19th August, 2004

(INCOME-TAX)

S.O. 2149.— It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of sub-section (1) of section 35 of the Income tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 under the category "Association" subject to the following conditions :—

(i) The organization shall maintain separate books of accounts for its research activities;

(ii) The notified organization shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology

Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;

(iii) The notified organization shall submit, on behalf of the Central Government, to (a) the Director General of Income Tax (Exemption), Aayakar Bhawan, 9th & 10th Floor, Sector 3, Vaishali, Ghaziabad (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income tax/ Director of Income Tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of section 35 of Income-tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S.No.	Name of the organisation approved	Period for which notification is effective
1.	M/s Sir Hurkisondas Nurrotumdas Medical Research Society, Raja Rammohan Roy Road, Mumbai-400004	1-4-2003 to 31-3-2006

Notes :— (i) Condition (i) above will not apply to the organization categorized as "Association".

(ii) The notified organization is advised to apply in triplicates as well in advance for further renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval should also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 222/2004/F. No.203/22/2004-ITA-II]

NIDHI SINGH, Under Secy.

नई दिल्ली, 19 अगस्त, 2004

(आयकर)

का.आ. 2150.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (I) के खंड (iii) के प्रयोजनार्थ "संस्था" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

(i) अधिसूचित संगठन अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगा;

(ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक विवरणी प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन' न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;

(iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोद्दिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट) आयकर भवन, नवीं व दसवीं मंजिल, सैक्टर-3, वैशाली, गाजियाबाद (ख) सचिव वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्तूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स सेन्टर फार पालिसी रिसर्च धर्म मार्ग चाणक्यपुरी, नई दिल्ली-110021	1-4-2002 से 31-3-2005

टिप्पणी— (i) उपर्युक्त शर्त (i) "संघ" के रूप में श्रेणीबद्ध संगठन पर लागू नहीं होगी।

(ii) अधिसूचित संघ को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं. 223/2004/फा. सं. 203/51/2004-आयकर नि.-II]

निधि सिंह, अवर सचिव

New Delhi, the 19th August, 2004

(INCOME-TAX)

S.O. 2150.— It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (iii) of sub-section (1) of Section 35 of the Income-tax Act, 1961, read with

Rule 6 of the Income tax Rules, 1962 under the category "Institution" subject to the following conditions :—

(i) The organization shall maintain separate books of account for its research activities;

(ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;

(iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income-tax (Exemption), Aayakar Bhawan, 9th & 10th Floor, Sector 3, Vaishali, Ghaziabad (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income-tax/Director of Income-tax (Exemption) having jurisdiction over the organization, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income and Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income-tax Act, 1961 in addition to the return of income-tax to the designated assessing officer.

Sl. No.	Name of the organization approved	Period for which notification is effective
1.	M/s. Centre for Policy Research, Dharma Marg, Chanakyapuri, New Delhi-110021	1-4-2002 to 31-3-2005

Notes :— (i) Condition (i) above will not apply to the organization categorized as "Association".

(ii) The notified Association is advised to apply in triplicates as well in advance for further renewal of the approval, to the Central Government through the Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval should also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 223/2004/F. No. 203/51/2004/ITA-II]

NIDHI SINGH, Under Secy.

नई दिल्ली, 20 अगस्त, 2004

(आयकर)

का.आ. 2151.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2ङ के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2002-03 से कर निर्धारण वर्ष 2012-13(28-7-2011 तक) अर्थात् राज इन्फ्रास्ट्रक्चर प्रा. लिमिटेड, राज राम संयुक्त उद्यम तथा महाराष्ट्र सरकार अथवा पूर्ववर्ती के बीच दिनांक 4-9-2000 के करार के अनुसार 11 वर्ष 6 माह तथा 11 दिन की अवधि के लिए करार की शर्तों के उल्लंघन की दशा में नीचे पैरा (3) में उल्लिखित उद्यम/उपक्रम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :—

(i) उद्यम/उपक्रम आयकर नियमावली, 1962 के नियम 2ङ के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा;

(ii) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/उपक्रम :—

(क) आयकर नियमावली, 1962 के नियम 2ङ के स्पष्टीकरण (ख) में यथा परिभाषित पात्र कारोबार को जारी रखना बंद कर देता है; अथवा

(ख) खाता बहियों का रखरखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2ङके उप-नियम (6) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है; अथवा

(ग) आयकर नियमावली, 1962 के नियम 2ङ के उपनियम (6) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है ।

3. अनुमोदित उद्यम/उपक्रम है :—

मैसर्स राज इन्फ्रास्ट्रक्चर प्रा. लि., 8, रजनीगंधा अपार्टमेंट, शिरोली रोड के सामने, पुणे-411004, महाराष्ट्र को राज इन्फ्रास्ट्रक्चर प्रा. लि. राज राम संयुक्त उद्यम तथा महाराष्ट्र सरकार के बीच दिनांक 4-9-2000 के करार के अनुसार निर्माण, प्रचालन तथा हस्तानांतरण आधार के अन्तर्गत चकान शिकारपुर रोड, किलोमीटर 23/0 से 53/0 तक, एस.एच. 55 को मजबूत बनाने तथा चौड़ा करने की उनकी परियोजना हेतु।

[अधिसूचना सं. 225/2004/फा. सं. 205/62/2001-आयकर नि.-II]

निधि सिंह, अवर सचिव

New Delhi, the 20th August, 2004

(INCOME-TAX)

S.O. 2151.— It is notified for general information that the enterprise/undertaking listed at para (3) below has been approved by the Central Government for the purpose of Section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962 with effect from the

Asstt. Year 2002-03 to Asstt. Year 2012-13 (upto 28-07-2011) i.e. for a period of 11 years 6 months and 11 days as per agreement dt. 4-9-2000 between Raj Infrastructure Pvt. Ltd., Raj Ram Joint Venture and Government of Maharashtra, or earlier in the event of violation of the terms of the agreement.

2. The approval is subject to the conditions that :—

(i) the enterprise/undertaking will conform to and comply with the provisions of Section 10(23G) of the Income-tax Act, 1961, read with Rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise/undertaking :—

(a) ceases to carry on the eligible business as defined in Explanation (b) to Rule 2E of I.T. Rules, 1962; or

(b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (6) of Rule 2E of the Income-tax Rules, 1962; or

(c) fails to furnish the audit report as required by sub-rule (6) of Rule 2E of the Income-tax Rules, 1962.

3. The enterprise/industrial undertaking approved is :—

M/s. Raj Infrastructure Pvt. Ltd., 8, Rajanigandha Apartments, Opp. Shirole Road, Pune-411004, Maharashtra for their project of strengthening and widening of Chakan-Shikarpur Road Km. 23/0 to 53/0, SH 55 under Build, operate and transfer (BOT) basis as per agreement dated 4-9-2000 between Raj Infrastructure Pvt. Ltd., Raj Ram Joint Venture and Government of Maharashtra.

[Notification No. 225/2004/F. No. 205/62/2001/ITA-II]

NIDHI SINGH, Under Secy.

नई दिल्ली, 23 अगस्त, 2004

(आयकर)

का.आ. 2152.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा अधोलिखित संगठन को उसके नाम के सामने उल्लिखित अवधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ "**संघ**" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :—

(i) अधिसूचित संस्था अपने अनुसंधान कार्यकलापों के लिए अलग लेखा बहियों का रख-रखाव करेगा।

(ii) अधिसूचित संस्था प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक विवरणी प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग 'टेक्नोलॉजी भवन' न्यू महरोली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी;

(iii) अधिसूचित संस्था केन्द्र सरकार की तरफ से नामोद्दिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यकलापों, जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी, के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संगठन पर अधिकार क्षेत्र में (क) आयकर महानिदेशक (छूट) आयकर भवन, नवीं व दसवीं मंजिल, सैक्टर-3, वैशाली, गाजियाबाद (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्तूबर को अथवा उससे पहले प्रस्तुत करेगी।

क्रम सं.	अनुमोदित संगठन का नाम	अवधि जिसके लिए अधिसूचना प्रभावी है
1.	मैसर्स बी.वाई.एल. नायर चैरिटेबल हॉस्पीटल एण्ड टी. एन. मेडिकल कॉलेज रिसर्च सोसायटी डा. ए. एल. नायर रोड, मुम्बई-400008	1-4-2000 से 31-3-2003

टिप्पणी— (i) उपर्युक्त शर्त (i) "**संघ**" के रूप में श्रेणीबद्ध संगठन पर लागू नहीं होगी।

(ii) अधिसूचित संघ को सलाह दी जाती है कि वह अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें। अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को भी सीधे भेजी जाएंगी।

[अधिसूचना सं. 226/2004/फा. सं. 203/38/2001-आयकर नि.-II (खंड-III)]

निधि सिंह, अवर सचिव

New Delhi, the 23rd August, 2004

(INCOME-TAX)

S.O. 2152.— It is hereby notified for general information that the organisation mentioned below has been approved by the Central Government for the period mentioned below, for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961, read with Rule 6 of the Income-tax Rules, 1962 under the category "Association" subject to the following conditions :—

(i) The organization shall maintain separate books of account for its research activities;

(ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110016 for every financial year on or before 31st May of each year;

(iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income Tax (Exemption), Aayakar Bhawan, 9th and 10th Floor, Sector 3, Vaishali, Ghaziabad, (b) the Secretary, Department of Scientific & Industrial Research, and (c) the Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income and Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of Section 35 of Income-tax Act, 1961 in addition to the return of income tax to the designated assessing officer.

S.No.	Name of the organisation approved	Period for which notification is effective
1.	M/s. B.Y.L. Nair Charitable Hospital & T.N. Medical College Research Society, Dr. A.L. Nair Road, Mumbai-400 008.	1-4-2000 to 31-3-2003

Notes :— (i) Condition (i) above will not apply to the organization categorized as "Association".

(ii) The notified Association is advised to apply in triplicates as well in advance for further renewal of the approval, to the Central Government through the Commissioner of Income tax/Director of Income-tax (Exemptions) having jurisdiction. Three copies of the application for renewal of approval should also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 226/2004/F. No. 203/38/2001/ITA-II (Vol. III)]

NIDHI SINGH, Under Secy.

नई दिल्ली, 24 अगस्त, 2004

(आयकर)

का.आ. 2153.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा "दि रेलवे गुड क्लियरिंग एण्ड फारवर्डिंग एस्टेब्लिशमेंट लेबर बोर्ड, मुम्बई" को वर्ष 2002-2003 से 2004-2005 के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :-

(i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगी जिनके लिए इसकी स्थापना की गई है;

(ii) कर- निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिकअंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;

(iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;

(v) विघटन की स्थिति में इसकी अतिरिक्त राशियाँ और परिसम्पतियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 227/2004/फा.सं. 197/118/2003-आयकर नि-I]

देवी शरण सिंह, अवर सचिव

New Delhi, the 24th August, 2004

(INCOME-TAX)

S. O. 2153.—In exercise of the powers conferred by the sub-clause (iv) of Clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "The Railway Goods Clearing & Forwarding Establishment Labour Board, Mumbai" for the purpose of the said sub-clause for the assessment years 2002-2003 to 2004-2005 subject to the following conditions, namely :—

(i) The assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;

(ii) The assessee will not invest or deposit its fund (other than voluntary contributions received and

maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;

(iii) This notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of account are maintained in respect of such business;

(iv) The assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;

(v) That in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 227/2004/F. No. 197/118/2003-ITA-I]

DEVI SHARAN SINGH, Under Secy.

नई दिल्ली, 24 अगस्त, 2004

(आयकर)

का.आ. 2154.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा "दि क्लीयरिंग एण्ड फारवर्डिंग अन प्रोटेक्टेड डॉक लेबर बोर्ड, मुम्बई" को वर्ष 1999-2000 से 2001-2002 के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :-

(i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;

(ii) कर- निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;

(iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष दाखिल करेगा;

(v) विघटन की स्थिति में इसकी अतिरिक्त राशियाँ और परिसम्पतियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 228/2004/फा.सं. 197/122/2003-आयकर नि-I]

देवी शरण सिंह, अवर सचिव

New Delhi, the 24th August, 2004

(INCOME TAX)

S. O. 2154.—In exercise of the powers conferred by sub-clause (iv) of Clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "The Clearing & Forwarding Unprotected Dock Labour Board, Mumbai" for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely :—

(i) The assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;

(ii) The assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;

(iii) This notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;

(iv) The assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;

(v) That in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 228/2004/F. No. 197/122/2003-ITA-I]

DEVI SHARAN SINGH, Under Secy.

नई दिल्ली, 24 अगस्त, 2004

(आयकर)

का.आ. 2155.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का

प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा "दि क्लीयरिंग एण्ड फारवर्डिंग अनप्रोटेक्टिड डॉक लेबर बोर्ड, मुम्बई" को वर्ष 2002-2003 से 2004-2005 के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :—

(i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;

(ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;

(iv) कर-निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष दाखिल करेगा;

(v) विघटन की स्थिति में इसकी अतिरिक्त राशियाँ और परिसम्पतियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 229/2004/फा.सं. 197/123/2003-आयकर नि-I]

देवी शरण सिंह, अवर सचिव

New Delhi, the 24th August, 2004

(INCOME TAX)

S.O. 2155.—In exercise of the powers conferred by sub-clause (iv) of Clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "The Clearing & Forwarding Unprotected Dock Labour Board, Mumbai" for the purpose of the said sub-clause for the assessment years 2002-2003 to 2004-2005 subject to the following conditions, namely :—

(i) The assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;

(ii) The assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;

(iii) This notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;

(iv) The assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;

(v) That in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 229/2004/F. No. 197/123/2003-ITA-I]

DEVI SHARAN SINGH, Under Secy.

नई दिल्ली, 24 अगस्त, 2004

(आयकर)

का.आ. 2156.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा "बाम्बे आयरन एण्ड स्टील लेबर बोर्ड, मुम्बई" को वर्ष 1993-1994 से 1995-1996 के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :-

(i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;

(ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;

(iv) कर-निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर

प्राधिकारी के समक्ष दाखिल करेगा;

(v) विघटन की स्थिति में इसकी अतिरिक्त राशियाँ और परिसम्पत्तियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 230/2004/फा.सं. 197/159/2003-आयकर नि-I]

देवी शरण सिंह, अवर सचिव

New Delhi, the 24th August, 2004

(INCOME-TAX)

S. O. 2156.—In exercise of the powers conferred by the sub-clause (iv) of Clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Bombay Iron & Steel Labour Board, Mumbai" for the purpose of the said sub-clause for the assessment years 1993-1994 to 1995-1996 subject to the following conditions, namely :—

(i) The assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;

(ii) The assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in Sub-section (5) of Section 11;

(iii) This notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;

(iv) The assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;

(v) That in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 230/2004/F. No. 197/159/2003-ITA-I]

DEVI SHARAN SINGH, Under Secy.

नई दिल्ली, 24 अगस्त, 2004

(आयकर)

का.आ. 2157.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा "बम्बई आयरन एण्ड स्टील लेबर बोर्ड, मुम्बई" को वर्ष 1996-1997 से 1998-1999 के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :—

(i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है;

(ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;

(iv) कर-निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;

(v) विघटण की स्थिति में इसकी अतिरिक्त राशियाँ और परिसम्पत्तियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 231/2004/फा.सं. 197/160/2003-आयकर नि-I]

देवी शरण सिंह, अवर सचिव

New Delhi, the 24th August, 2004

(INCOME TAX)

S.O. 2157.—In exercise of the powers conferred by the sub-clause (iv) of Clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Bombay Iron & Steel Labour Board, Mumbai" for the purpose of the said sub-clause for the assessment years 1996-1997 to 1998-1999 subject to the following conditions, namely :—

(i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;

(ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant

to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in Sub-section (5) of Section 11;

(iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate book of accounts are maintained in respect of such business;

(iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;

(v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 231/2004/F. No. 197/160/2003-ITA-I]

DEVI SHARAN SINGH, Under Secy.

नई दिल्ली, 24 अगस्त, 2004

(आयकर)

का.आ. 2158.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उप-खंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा ''बम्बई आयरन एण्ड स्टील लेबर बोर्ड, कलामबोली, तालुका-पनवेल, जिला-रायगाड, महाराष्ट्र'' को वर्ष 1999-2000 से 2001-2002 के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :-

(i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगी जिनके लिए इसकी स्थापना की गई है;

(ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त का निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;

(iv) कर-निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा;

(v) विघटन की स्थिति में इसकी अतिरिक्त राशियाँ और परिसम्पत्तियाँ समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 232/2004/फा.सं. 197/93/2004-आयकर-नि I]

देवी शरण सिंह, अवर सचिव

New Delhi, the 24th August, 2004

(INCOSME TAX)

S. O. 2158.—In exercise of the powers conferred by the sub-clause (iv) of Clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Bombay Iron and Steel Labour Board, Kalamboli, Taluka-Panvel, Distt. Raigad, Maharashtra" for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely :—

(i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;

(ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above other-wise than in any one or more of the forms or modes specified in Sub-section (5) of Section 11;

(iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;

(iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;

(v) that in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 232/2004/F. No. 197/93/2004-ITA-I]

DEVI SHARAN SINGH, Under Secy.

नई दिल्ली, 24 अगस्त, 2004

(आयकर)

का.आ. 2159.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उप-खंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा "बम्बई आयरन एण्ड स्टील लेबर बोर्ड, कलामबोली, तालुका-पनवेल, जिला-रायगाड, महाराष्ट्र" को वर्ष 2002-2003 से 2004-2005 के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप-खंड के प्रयोजनार्थ अनुमोदित करती है, अर्थात् :-

(i) कर-निर्धारिती अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगी जिनके लिए इसकी स्थापना की गई है;

(ii) कर-निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिकअंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों;

(iv) कर-निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रुप से आयकर प्राधिकारी के समक्ष फाइल करेगा;

(v) विघटन की स्थिति में इसकी अतिरिक्त राशियाँ और परिसम्पतियाँ समान उद्देश्यों वाले धमार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 233/2004/फा.सं. 197/94/2004-आयकर नि-I]

देवी शरण सिंह, अवर सचिव

New Delhi, the 24th August, 2004

(INCOME TAX)

S. O. 2159.—In exercise of the powers conferred by Sub-clause (iv) of Clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Bombay Iron and Steel Labour Board, Kalamboli, Taluka-Panvel, Distt. Raigad, Maharashtra" for the purpose of the said Sub-clause for the assessment year 2002-2003 to 2004-2005 subject to the following conditions, namely :—

(i) the assessee will apply its income, or accumulate for application, wholly and exclusively the objects for which it is established;

(ii) the assessee will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in Sub-section (5) of Section 11;

(iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of account are maintained in respect of such business;

(iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;

(v) That in the event of dissolution, its surplus and the assets will be given to a charitable organisation with similar objectives.

[Notification No. 233/2004/F. No. 197/94/2004-ITA-I]

DEVI SHARAN SINGH, Under Secy.

(कार्यालय आयुक्त, केन्द्रीय उत्पाद एवं सीमा शुल्क)

भोपाल, 4 अगस्त, 2004

का. आ. 2160.—श्री पी.टी. लालवानी, प्रशासनिक अधिकारी, समूह 'ख' केन्द्रीय उत्पाद एवं सीमा शुल्क, आयुक्तालय भोपाल, निवर्तन की आयु प्राप्त करने पर, दिनांक 30-06-2004 को अपरान्ह में शासकीय सेवा से निवृत्त हुए।

[फा. सं. II/(25)01/2000/स्था-I]

के०के० दत्ता, संयुक्त आयुक्त(का./स.)

(OFFICE OF THE COMMISSIONER, CUSTOMS & CENTRAL EXCISE)

Bhopal, the 4th August, 2004

S.O. 2160.— Shri P. T. Lalwani, Administrative Officer, Group 'B' Central Excise & Customs, Bhopal Comissionerate having attained the age of superannuation, retired from Government Service in the afternoon of 30th June, 2004.

[F. No.II/(25)01/2000/Et.-I]

K. K. DUTTA, Joint Commissioner (P&V)

(केंद्रीय उत्पाद एवं सीमा शुल्क आयुक्त का कार्यालय)

पुणे, 23 अगस्त, 2004

संख्या : 2/2004-05, केंद्रीय उत्पाद शुल्क (नॉन टैरिफ)

का. आ. 2161.—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली द्वारा दिनांक 1-7-1994 को जारी की गई अधिसूचना संख्या 33/94-सीमा शुल्क (नॉन टैरिफ) के अधीन मुझे प्रदत्त अधिकारों को कार्यान्वित करते हुए, मैं, ए. एस. आर. नायर, आयुक्त, केंद्रीय उत्पाद शुल्क पुणे-III, आयुक्तालय, पुणे एतद्द्वारा महाराष्ट्र राज्य के गांव : धानौरे तालुका खेड, जिला पुणे-412105 को सीमा शुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 के अधीन तथा 100% निर्यातलक्ष्यी यूनिट स्थापना हेतु, वेयरहाउसिंग स्टेशन के रूप में घोषित करता हूं।

[फाइल सं. वी. जी. एन. (30)/521/टी ए/04]

ए. एस. आर. नायर, आयुक्त

(OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS)

Pune, the 23rd August, 2004

NO. 2/2004-05, C. EX. (N.T.)

S. O. 2161.—In exercise of the powers conferred on me by the Notification No. 33/94-Cus. (N.T.), dated 1-7-1994, of the Government of India, Ministry of Finance (Department of Revenue) I, A.S.R. Nair, the Commissioner of Central Excise, Pune-III, Commissionerate, Pune, hereby declare, Village : Dhanore, Taluka : Khed, Distt. Pune-412105 in the State of Maharashtra to be Warehousing Station under Section 9 of the Customs Act, 1962 (52 of 1962), for setting up 100% E.O.U.'s.

[F. No. VGN (30)/521/TA/04]

A.S.R. NAIR, Commissioner

(कार्यालय : आयुक्त, केन्द्रीय उत्पाद शुल्क)

जयपुर, 24 अगस्त, 2004

सीमा शुल्क

का. आ. 2162.—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली की अधिसूचना संख्या 33/94-सीमा शुल्क (एन.टी.) दिनांक 1 जुलाई, 1994 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए मैं, जे. चतुर्वेदी, आयुक्त केन्द्रीय उत्पाद शुल्क जयपुर-II, एतद्द्वारा राजस्थान राज्य के भीलवाडा, जिला, बिजोलिया तहसील, ग्राम देवीनिवास एवं मगरवासा को सीमा शुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 के अन्तर्गत शत प्रतिशत ई.ओ.यू. स्थापित करने के उद्देश्य से भण्डागार स्टेशन (वेयरहाउसिंग स्टेशन) घोषित करता हूं।

[सं. 2/सीमा शुल्क (एन टी) जेपी-II/2004]

जे. चतुर्वेदी, आयुक्त

(OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE)

Jaipur, the 24th August, 2004

CUSTOMS

S. O. 2162.—In exercise of the powers conferred by the Notification No. 33/94-Customs (N.T.), dated 1st July, 1994 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, I, J. Chaturvedi, Commssioner, Central Excise, Jaipur-II, hereby declare Village Deviniwas and Magarwasa, Tehsil Bijoliya, Distt. Bhilwara in the State of Rajasthan to be a Warehousing Station under Section 9 of the Customs Act, 1962 (52 of 1962) for the limited purpose of setting up of 100% Export Oriented Undertakings.

[No. 2/CUS. (NT) JP-II/2004]

J. CHATURVEDI, Commissioner

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 23 अगस्त, 2004

का.आ. 2163.—रुग्ण औद्योगिक कंपनी (विशेष उपबंध) अधिनियम, 1985 की धारा 6 की उप-धारा (2) के साथ पठित धारा 4 की उप-धारा (2) द्वारा प्रदत्त शक्तियों के अनुसरण में, केन्द्रीय सरकार एतद्द्वारा औद्योगिक एवं पुनर्निर्माण बोर्ड के सदस्यों के रूप में सर्वश्री एन.पी. बागची, एन.आर. बनर्जी तथा एन. पी. सिंह के कार्यकाल को उनके पदभार ग्रहण करने की तारीख से 29 जनवरी, 2005 तक या बीआईएफआर के उत्सादन तक या अगले आदेशों तक, जो भी पहले हो, बढ़ाती है।

2. इसके अलावा, उपर्युक्त अधिनियम की धारा 6 की उपधारा (5) के द्वारा प्रदत्त शक्तियों के अनुसरण में, केन्द्रीय सरकार श्री एन. पी. बागची को इस अवधि के दौरान बीआईएफआर के अध्यक्ष के रूप में कार्य करने के लिए प्राधिकृत करती है।

[फा. सं. 20(1)/2002-आईएफ-II]

बी. डी. बेरवाल, अवर सचिव

(Department of Economic Affairs)

(BANKING DIVISION)

New Delhi, the 23rd August, 2004

S.O. 2163.—In exercise of the powers conferred by Sub-section (2) of Section 4 read with Sub-section (2) of Section 6 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), the Central Government hereby extends the appointments of S/Shri N. P. Bagchee, N. R. Banerjee and N.P. Singh, as Members of the Board for Industrial and Financial Reconstruction (BIFR), till 29th January, 2005 with effect from the date of assumption of the charge of the post or till the abolition of BIFR or until further orders, whichever is the earliest.

2. Further, in pursuance of the powers conferred by Sub-section (5) of Section 6 of the said Act, the Central Government authorizes Shri N.P. Bagchee to act as Chairman of BIFR during the above period.

[F. No. 20(1)/2002-IF. II]

B. D. BERWAL, Under Secy.

विदेश मंत्रालय

(सी.पी.वी. डिवीजन)

नई दिल्ली, 26 अगस्त, 2004

का.आ. 2164.—राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्द्वारा भारत का राजदूतावास, मस्कत में निम्नलिखित सहायकों को 26-8-2004 से सहायक कौंसली अधिकारी का कार्य करने हेतु प्राधिकृत करती है।

1. श्री रेजिस अब्राहीम, सहायक
2. श्रीमती रेनु खुराना, सहायक

[सं. टी-4330/01/2004]

उपेन्द्र सिंह रावत, अवर सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(C. P. V. DIVISION)

New Delhi, the 26th August, 2004

S. O. 2164.—In pursuance of the Clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorise following officers in the Embassy of India, Muscat to perform the duties of Assistant Consular Officer with effect from 26-8-2004.

1. Shri Reji Abraham, Assistant
2. Smt. Renu Khurana, Assistant

[No. T-4330/01/2004]

U. S. RAWAT, Under Secy. (Cons.)

वाणिज्य और उद्योग मंत्रालय

(वाणिज्य विभाग)

शुद्धि-पत्र

नई दिल्ली, 23 अगस्त, 2004

का.आ. 2165.—भारत सरकार के वाणिज्य और उद्योग मंत्रालय की अधिसूचना संख्यांक का.आ. सं. 233, तारीख 13 जनवरी, 2004 द्वारा भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii) तारीख 31 जनवरी, 2004 के पृष्ठ 420-421 में प्रकाशित, शुष्क मत्स्य निर्यात (क्वालिटी नियंत्रण और निरीक्षण) संशोधन नियम, 2003 से संबंधित नियम (1) के उपनियम (1) में "संशोधन नियम, 2003" के स्थान पर, "संशोधन नियम, 2004" पढ़ें।

[फा. सं. 6/5/2000-ईआई एंड ईपी]

राज सिंह, निदेशक

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

CORRIGENDUM

New Delhi, the 23rd August, 2004

S. O. 2165.—In the notification of the Government of India in the Minstry of Commerce and Industry number S. O. No. 233 dated the 13th January, 2004, published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 31st January, 2004 at pages 420-421 relating to the Export of Dried Fish (Quality Control and Inspection) Amendment Rules, 2003, in rule 1, in sub-rule (1), for "Amendment Rules, 2003" read "Amendment Rules, 2004".

[F. No. 6/5/2000-EI&EP]

RAJ SINGH, Director

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

(पी. एम. एस. अनुभाग)

नई दिल्ली, 18 अगस्त, 2004

का.आ. 2166.—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार भारतीय दंत चिकित्सा परिषद् के साथ परामर्श करने के पश्चात उक्त अधिनियम की अनुसूची के भाग-I में निम्नलिखित संशोधन करती है, अर्थात :—

निम्नलिखित प्रविष्टि अनुसूची के भाग I में क्रम संख्या 26 के सामने मौजूदा प्रविष्टियों के कालम 2 के अन्तर्गत जोड़ी जाएंगी, अर्थात :—

बैचलर आफ डेंटल सर्जरी

माडर्न डेंटल कालेज एंड रिसर्च सेन्टर, इंदौर के बीडीएस छात्रों के संबंध में देवी अहिल्या विश्वविद्यालय, इंदौर द्वारा **दिनांक 20-3-2004 को अथवा उसके बाद** प्रदत्त बीडीएस डिग्री एक मान्यताप्राप्त दंत चिकित्सा अर्हता होगी।

[सं. वी-12017/24/98-पीएमएस]

ए. के. सिंह, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

(P.M.S. SECTION)

New Delhi, the 18th August, 2004

S. O. 2166.—In exercsie of the power conferred by Sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby makes the following amendments in Part I of the Schedule to the said Act, namely :—

The following entry shall be added udner col. 2 of the existing entries against Serial Number 26 in Part I of the Schedule, namely :—

BACHELOR OF DENTAL SURGERY

The BDS Degree awarded by Devi Ahilya Vishwavidyalaya, Indore, **on or after 20-3-2004** in respect of the BDS students of Modern Dental College & Research Centre, Indore, shall be a recognised dental qualification.

[F. No. V-12017/24/98-PMS]

A. K. SINGH, Under Secy.

नई दिल्ली 18 अगस्त, 2004

का.आ. 2167 .—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु त्रिभुवन विश्वविद्यालय द्वारा प्रदत्त चिकित्सा अर्हता एम बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. गुरूंग राम बहादुर, नेपाली नागरिक, जिनके पास उक्त अर्हता है, मणिपाल अस्पताल, बेंगलौर से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. गुरूंग राम बहादुर द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि:-

(क) इस अधिसूचना के जारी होने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. गुरूंग राम बहादुर, मणिपुर अस्पताल, बेंगलौर से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं. वी-11016/1/2004-एम ई (नीति-I)]

पी.जी. कलाधरण, अवर सचिव

नई दिल्ली 18 अगस्त, 2004

का.आ. 2168—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु काठमांडू विश्वविद्यालय द्वारा प्रदत्त चिकित्सा अर्हता एम बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. धुंगेल कंचन नेपाली नागरिक, जिनके पास उक्त अर्हता है, मणिपाल अस्पताल, बेंगलौर से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़ी हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. धुंगेल कंचन द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :-

(क) इस अधिसूचना के जारी होने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. धुंगेल कंचन, मणिपुर अस्पताल, बेंगलौर से जुड़ी हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं. वी-11016/1/2004-एम ई (नीति-I)]

पी.जी. कलाधरण, अवर सचिव

New Delhi, the 18th August, 2004

S.O. 2167— Whereas medical qualification MBBS granted by Tribhuvan University is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Gurung Ram Bahadur, Nepali national, who possess the said qualification is attached to Manipal Hospital, Bangalore for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of Sub-section (1) of Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Gurung Ram Bahadur in India shall be limited to:—

(a) a period of six months from the date of issue of this notification; or

(b) the period during which Dr. Gurung Ram Bahadur is attached to Manipal Hospital, Bangalore, whichever is shorter.

[No.V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

New Delhi, the 18th August, 2004

S.O. 2168 — Whereas medical qualification MBBS granted by Kathmandu University is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Dhungel Kanchan, Nepali national, who possess the said qualification is attached to Manipal Hospital, Bangalore for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of Sub-section (1) of Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Dhungel Kanchan in India shall be limited to:—

(a) a period of six months from the date of issue of this notification; or

(b) the period during which Dr. Dhungel Kanchan is attached to Manipal Hospital, Bangalore, whichever is shorter.

[No.V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली 18 अगस्त, 2004

का.आ. 2169.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु केरल विश्वविद्यालय द्वारा प्रदत्त चिकित्सा अर्हता एम बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. रामानाथन जया, अमेरिकी नागरिक जिनके पास उक्त अर्हता है, श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. रामानाथन जया द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) इस अधिसूचना के जारी होने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. रामानाथन जया, श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं० वी-11016/1/2004-एम ई (नीति-I)]

पी.जी. कलाधरण, अवर सचिव

New Delhi, the 18th August, 2004

S.O. 2169.—Whereas medical qualification MBBS granted by University of Kerala is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Ramanathan Jaya, American national, who possess the said qualification is attached to Sri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Dist. (Andhra Pradesh) for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of Sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Ramanathan Jaya in India shall be limited to :—

(a) a period of six months from the date of issue of this notification; or

(b) the period during which Dr. Ramanathan Jaya is attached to Sri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Dist. (Andhra Pradesh) whichever is shorter.

[No. V-11016/1/2004-ME (Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली 18 अगस्त, 2004

का.आ. 2170.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु केस वेस्टर्न रिजर्व यूनिवर्सिटी आफ यू एस ए द्वारा प्रदत्त चिकित्सा अर्हता एम डी; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. प्रकाश कविता, अमेरिकी नागरिक, जिनके पास उक्त अर्हता है, श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़ी हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. प्रकाश कविता द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) इस अधिसूचना के जारी हाने की तिथि से छह माह की अवधि अथवा

(ख) उस अवधि, जिसके दौरान डा. प्रकाश कविता, श्री सत्य सांई जनरल अस्पताल प्रशान्तिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से जुड़ी हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं० वी-11016/1/2004-एम ई (नीति-I)]

पी.जी. कलाधरण, अवर सचिव

New Delhi, the 18th August, 2004

S.O. 2170.—Whereas medical qualification MD granted by Case Western Reserve University of USA is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Prakash Kavitha, American national, who possess the said qualification is attached to Sri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Dist. (Andhra Pradesh) for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of Sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Prakash Kavitha in India shall be limited to :—

(a) a period of six months from the date of issue of this notification; or

(b) the period during which Dr. Prakash Kavitha is attached to Sri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Dist. (Andhra Pradesh) whichever is shorter.

[No. V-11016/1/2004-ME (Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली 18 अगस्त, 2004

का.आ. 2171.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु सेंट पीटर्सबर्ग स्टेट मेडिकल एकेडमी, रूस द्वारा प्रदत्त चिकित्सा अर्हता एम डी; उक्त अधिनियम की धारा 14 के अधीन एक मान्यताप्राप्त चिकित्सा अर्हता है;

और, डा. वैद्य लाल नीरज, नेपाली नागरिक, जिनके पास उक्त अर्हता है, मणिपाल अस्पताल, बेंगलौर से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अतः, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. वैद्य लाल नीरज द्वारा आयुर्विज्ञान की प्रैक्टिस करने के अवधि :—

(क) इस अधिसूचना के जारी होने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. वैद्यलाल नीरज, मणिपाल अस्पताल, बेंगलौर से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं० वी-11016/1/2004-एम ई (नीति-I)]

पी.जी. कलाधरण, अवर सचिव

New Delhi, the 18th August, 2004

S.O. 2171.—Whereas medical qualification MD granted by St. Petersburg State Medical Academy, Russia is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Baidya Lal Niraj, Nepali national, who possess the said qualification is attached to Manipal Hospital, Bangalore for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of Sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Baidya Lal Niraj in India shall be limited to :—

(a) a period of six months from the date of issue of this notification; or

(b) the period during which Dr. Baidya Lal Niraj is attached to Manipal Hospital, Bangalore, whichever is shorter.

[No.V-11016/1/2004-ME (Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली 18 अगस्त, 2004

का.आ. 2172.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु बी पी कोइराला इंस्टीट्यूट आफ हैल्थ साइंसेज, धारण द्वारा प्रदत्त चिकित्सा अर्हता एम बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यताप्राप्त चिकित्सा अर्हता है;

और, डा. अजय कुमार झा, नेपाली नागरिक, जिनके पास उक्त अर्हता है, मणिपाल अस्पताल, बेंगलौर से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अतः, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. अजय कुमार झा द्वारा आयुर्विज्ञान की प्रैक्टिस करने के अवधि :—

(क) इस अधिसूचना के जारी होने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. अजय कुमार झा, मणिपाल अस्पताल, बेंगलौर से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं० वी-11016/1/2004-एम ई (नीति-I)]

पी.जी. कलाधरण, अवर सचिव

New Delhi, the 18th August, 2004

S.O. 2172.—Whereas medical qualification MBBS granted by B.P Koirala Institute of Health Sciences, Dharan is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Ajay Kumar Jha, Nepali national, who possess the said qualification is attached to Manipal Hospital, Bangalore for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of Sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Ajay Kumar Jha in India shall be limited to:—

(a) a period of six months from the date of issue of this notification; or

(b) the period during which Dr. Ajay Kumar Jha is attached to Manipal Hospital, Bangalore, whichever is shorter.

[No.V-11016/1/2004-ME (Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली 18 अगस्त, 2004

का.आ. 2173.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु ढाका विश्वविद्यालय द्वारा प्रदत्त चिकित्सा अर्हता एम बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यताप्राप्त चिकित्सा अर्हता है;

और, डा. जीवन सिंह नेपाली नागरिक, जिनके पास उक्त अर्हता है, मणिपाल अस्पताल, बेंगलौर से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अतः, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. जीवन सिंह द्वारा आयुर्विज्ञान की प्रैक्टिस करने के अवधि :—

(क) इस अधिसूचना के जारी होने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. जीवन सिंह, मणिपाल अस्पताल, बेंगलौर से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं० वी-11016/1/2004-एम ई (नीति-I)]

पी.जी. कलाधरण, अवर सचिव

New Delhi, 18th August, 2004

S.O. 2173.— Whereas medical qualification MBBS granted by Dhaka University is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Jeevan Singh, Nepali national, who possess the said qualification is attached to Manipal Hospital, Bangalore for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of Sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Jeevan Singh in India shall be limited to:—

(a) A period of six months from the date of issue of this notification; or

(b) The period during which Dr. Jeevan Singh is attached to Manipal Hospital, Bangalore, whichever is shorter.

[No.V-11016/1/2004-ME (Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली 18 अगस्त, 2004

का.आ. 2174 .—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु कुवेम्पू विश्वविद्यालय द्वारा प्रदत्त चिकित्सा अर्हता एम बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यताप्राप्त चिकित्सा अर्हता है;

और, डा. प्रधान सुजान, नेपाली नागरिक, जिनके पास उक्त अर्हता है, मणिपाल अस्पताल, बेंगलौर से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अतः, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. प्रधान सुजान, द्वारा आयुर्विज्ञान की प्रैक्टिस करने के अवधि :—

(क) इस अधिसूचना के जारी होने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. प्रधान सुजान,, मणिपाल अस्पताल, बेंगलौर से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं० वी-11016/1/2004-एम ई (नीति-I)]

पी.जी. कलाधरण, अवर सचिव

New Delhi, 18th August, 2004

S.O. 2174.— Whereas medical qualification MBBS granted by Kuvempu University is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Pradhan Sujan, Nepali national, who possess the said qualification is attached to Manipal Hospital, Bangalore for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Pradhan Sujan, in India shall be limited to:—

(a) A period of six months from the date of issue of this notification; or

(b) The period during which Dr. Pradhan Sujan, is attached to Manipal Hospital, Bangalore, whichever is shorter.

[No.V-11016/1/2004-ME (Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली 18 अगस्त, 2004

का.आ. 2175.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन मिंस्क स्टेट मेडिकल इंस्टीट्यूट बेलारूस द्वारा प्रदत्त चिकित्सा अर्हता एम डी; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. शान्ति श्रेष्ठ, नेपाली नागरिक, जिनके पास उक्त अर्हता है, मणिपाल अस्पताल, बेंगलौर से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़ी हैं;

अतः, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. शान्ति श्रेष्ठ, द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) इस अधिसूचना के जारी हाने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. शान्ति श्रेष्ठ, मणिपाल अस्पताल, बेंगलौर से जुड़ी हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं० वी-11016/1/2004-एम ई (नीति-I)]

पी.जी. कलाधरण, अवर सचिव

New Delhi, 18th August, 2004

S.O. 2175.— Whereas medical qualification MD granted by Minsk State Medical Institute, Belorus is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Shanti Shrestha, Nepali National, who possess the said qualification is attached to Manipal Hospital, Bangalore for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Shanti Shrestha, in India shall be limited to:—

(a) a period of six months from the date of issue of this notification; or

(b) the period during which Dr. Shanti Shreshta, is attached to Manipal Hospital, Bangalore, whichever is shorter.

[No.V-11016/1/2004-ME (Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली 18 अगस्त, 2004

का.आ. 2176.— भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु ढाका विश्वविद्यालय द्वारा प्रदत्त चिकित्सा अर्हता एम बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. कैसर नसरूल्ला खान, बांग्लादेशी नागरिक, जिनके पास उक्त अर्हता है, एस्कोर्ट हार्ट इंस्टीट्यूट एंड रिसर्च सेन्टर, नई दिल्ली-110025 से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत:, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. कैसर नसरूल्ला खान, द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) इस अधिसूचना के जारी हाने की तिथि से छह माह की अवधि अथवा

(ख) उस अवधि, जिसके दौरान डा. कैसर नसरूल्ला खान, एस्कोर्ट हार्ट इंस्टीट्यूट एंड रिसर्च सेन्टर, नई दिल्ली-110025 से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं० वी-11016/1/2004-एम ई (नीति-I)]

पी.जी. कलाधरण, अवर सचिव

New Delhi, 18th August, 2004

S.O. 2176.— Whereas medical qualification MBBS granted by Dhaka University is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Kaisar Narsullah Khan, Bangladeshi National, who possess the said qualification is attached to Escorts Heart Institute & Research Centre, New Delhi-110025 for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Kaisar Nasrullah Khan in India shall be limited to:—

(a) a period of six months from the date of issue of this notification; or

(b) the period during which Dr. Kaisar Nasrullah Khan is attached to Escorts Heart Institute & Research Centre, New Delhi-110025, whichever is shorter.

[No.V-11016/1/2004-ME (Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली 18 अगस्त, 2004

का.आ. 2177.— भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु बम्बई विश्वविद्यालय द्वारा प्रदत्त चिकित्सा अर्हता एम बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. मर्चेण्ट यतीश बिचारदास, अमेरीकी नागरिक, जिनके पास उक्त अर्हता है, श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आंध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत:, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. मर्चेण्ट यतीश बिचारदास, द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) इस अधिसूचना के जारी होने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. मर्चेण्ट यतीश बिचारदास, श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आंध्र प्रदेश) से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं० वी-11016/1/2004-एम ई (नीति-I)]

पी.जी. कलाधरण, अवर सचिव

New Delhi, 18th August, 2004

S.O. 2177.— Whereas medical qualification MBBS granted by University of Bombay is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Merchant Yatish Bechardas, American national, who possess the said qualification is attached to Shri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Distt, (Andhra Pradesh) for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Merchant Yatish Bechardas in India shall be limited to:—

(a) A period of six months from the date of issue of this notification; or

(b) The period during which Dr. Merchant Yatish Bechardas is attached to Shri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Distt. (Andhra Pradesh), whichever is shorter.

[No.V-11016/1/2004-ME (Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली 18 अगस्त, 2004

का.आ. 2178.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु गुजरात विश्वविद्यालय द्वारा प्रदत्त चिकित्सा अर्हता एम बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. पारिख निखिल शांतिलाल, अमेरिकी नागरिक, जिनके पास उक्त अर्हता है, श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आंध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत:, अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. पारिख निखिल शांतिलाल, द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) इस अधिसूचना के जारी होने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. पारिख निखिल शांतिलाल, श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आंध्र प्रदेश) से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं० वी-11016/1/2004-एम ई (नीति-I)]

पी.जी. कलाधरण, अवर सचिव

New Delhi, 18th August, 2004

S.O. 2178.— Whereas medical qualification MBBS granted by Gujarat is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Parikh Nikhil Shantilal American national, who possess the said qualification is attached to Shri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Distt. (Andhra Pradesh) for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Parikh Nikhil Shantilal in India shall be limited to:—

(a) A period of six months from the date of issue of this notification; or

(b) The period during which Dr. Parikh Nikhil Shantilal is attached to Shri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Distt. (Andhra Pradesh) whichever is shorter.

[No.V-11016/1/2004-ME (Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 18 अगस्त, 2004

का.आ. 2179.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु नागार्जुन यूनिवर्सिटी द्वारा प्रदत्त चिकित्सा अर्हता एम बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. रेड्डी ज्योतिर्मय, अमेरिकी नागरिक, जिनके पास उक्त अर्हता है, श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. रेड्डी ज्योतिर्मय द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि:—

(क) इस अधिसूचना के जारी होने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. रेड्डी ज्योतिर्मय श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं. वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, the 18th August 2004

S.O. 2179.—Whereas medical qualification MBBS granted by Nagarjuna University is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Reddy Jyothirmai, American national, who possess the said qualification is attached to Sri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Dist. (Andhra Pradesh) for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of Sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Reddy Jyothirmai in India shall be limited to:—

(a) a period of six months from the date of issue of this notification; or

(b) the period during which Dr. Reddy Jyothirmai is attached to Sri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Dist. (Andhra Pradesh), whichever is shorter.

[No.V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 18 अगस्त, 2004

का.आ. 2180.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु सिलोन यूनिवर्सिटी द्वारा प्रदत्त चिकित्सा अर्हता एम बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. सब्रेतनम योगेन्द्र, अमेरिकी नागरिक, जिनके पास उक्त अर्हता है, श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. सब्रेतनम योगेन्द्र द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि:—

(क) अप्रैल, 2004 से आगे छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. सब्रेतनम योगेन्द्र, श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं. वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, the 18th August 2004

S.O. 2180.—Whereas medical qualification MBBS granted by University of Ceylon is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Sabretnam Yogendra, American national, who possess the said qualification is attached to Sri Sathya Sai General Hopital, Prashanthi Nilayam, Ananthapur Dist. (Andhra Pradesh) for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of Sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Sabretnam Yogendra in India shall be limited to:—

(a) a period of six months from April 2004 onwards; or

(b) the period during which Dr. Sabretnam Yogendra is attached to Sri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Dist. (Andhra Pradesh), whichever is shorter.

[No.V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 18 अगस्त, 2004

का.आ. 2181.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु ओस्मानिया यूनिवर्सिटी द्वारा प्रदत्त चिकित्सा अर्हता एम बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. बथिन राधा रविन्द्रनाथ, अमेरिकी नागरिक, जिनके पास उक्त अर्हता है, श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम,

अनंतपुर जिला (आन्ध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. बथिन राधा रविन्द्रनाथ द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि:—

(क) अप्रैल, 2004 से आगे छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. बथिन राधा रविन्द्रनाथ श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं. वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, 18th August, 2004

S.O. 2181.—Whereas medical qualification MBBS granted by Osmania University is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Bathina Radha Ravindranath, American national, who possess the said qualification is attached to Sri Sathya Sai General Hopital, Prashanthi Nilayam, Ananthapur Dist. (Andhra Pradesh) for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of Sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Bathina Radha Ravindranath in India shall be limited to:—

(a) a period of six months from April 2004 onwards; or

(b) the period during which Dr. Bathina Radha Ravindranath is attached to Sri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Dist. (Andhra Pradesh), whichever is shorter.

[No.V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 18 अगस्त, 2004

का.आ. 2182.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु टी वी ई आर स्टेट मेडिकल एकेडमी रूस द्वारा प्रदत्त चिकित्सा अर्हता डाक्टर आफ मेडिसिन; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. एलेना पेटुखिना, रूस के नागरिक, जिनके पास उक्त अर्हता है, दीसपुर पालीक्लिनिक एंड नर्सिंग दीसपुर, गुवाहाटी से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. एलेना पेटुखिना द्वारा अयुर्विज्ञान की प्रैक्टिस करने की अवधि:—

(क) दिनांक 2-4-2004 से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. एलेना पेटुखिना दीसपुर पालीक्लिनिक एंड नर्सिंग दीसपुर, गुवाहाटी से जुड़ी हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं. वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, 18th August, 2004

S.O. 2182.—Whereas medical qualification Doctor of Medicine granted by TVER State Medical Academy, Russia is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Elena Petrukhina, a Russian National, who possess the said qualification is attached to Dispur Ployclinic & Nursing Home, Ganeshguri, Dispur, Guwahati for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of Sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Elena Petrukhina in India shall be limited to:—

(a) a period of six months from 2-4-2004; or

(b) the period during which Dr. Elena Petrukhina is attached to Dispur Polyclinic & Nursing Home, Ganeshguri, Dispur, Guwahati whichever is shorter.

[No.V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 18 अगस्त, 2004

का.आ. 2183.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु केस वेस्टर्न रिजर्व यूनिवर्सिटी यू एस ए द्वारा प्रदत्त चिकित्सा अर्हता एम डी; उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त चिकित्सा अर्हता है;

और, डा. रघुपति अरूण, अमेरिकी नागरिक, जिनके पास उक्त अर्हता है, श्री सत्य सांई जनरल अस्पताल, प्रशान्ति निलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. रघुपति अरूण द्वारा अयुर्विज्ञान की प्रैक्टिस करने की अवधि:—

(क) अप्रैल, 2004 से आगे छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. रघुपति अरूण श्री सत्य सांई

जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं. वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, 18th August, 2004

S.O. 2183.—Whereas medical qualification MD granted by Case Western Reserve University, USA is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Raghupathy Arun, American national, who possess the said qualification is attached to Sri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Dist., (Andhra Pradesh) for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Raghupathy Arun in India shall be limited to:—

(a) A period of six months from April, 2004 onwards; or

(b) The period during which Dr. Raghupathy Arun is attached to Sri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Dist. (Andhra Pradesh), whichever is shorter.

[No.V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 18 अगस्त, 2004

का.आ. 2184.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु हावर्ड यूनिवर्सिटी, वाशिंगटन डी सी द्वारा प्रदत्त चिकित्सा अर्हता एम डी; उक्त अधिनियम की धारा 14 के अधीन एक मान्यताप्राप्त चिकित्सा अर्हता है;

और, डा. जेम्स एन. क्वाले, अमेरिकी नागरिक, जिनके पास उक्त अर्हता है, अमृता इंस्टीट्यूट ऑफ मेडिकल साइंसेज एंड रिसर्च, एलमक्करा, पी. ओ. कोचिन से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. जेम्स एन. क्वाले द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) सितम्बर, 2004 तक छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. जेम्स एन. क्वाले अमृता इंस्टीट्यूट ऑफ मेडिकल साइंसेज एंड रिसर्च, एलमक्करा, पी. ओ. कोचिन से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं. वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, 18th August, 2004

S.O. 2184.—Whereas medical qualification Doctor of Medicine granted by Howard University, Washington DC is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. James N. Kvale, American national, who possess the said qualification is attached to Amrita Instt. of Medical Sciences and Research, Elamakkara P.O. Cochin for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. James N. Kvale in India shall be limited to:—

(a) A period of six months from September, 2004; or

(b) The period during which Dr. James N. Kvale is attached to Amrita Instt. of Medical Sciences and Research, Elamakkara P.O. Cochin, whichever is shorter.

[No.V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 18 अगस्त, 2004

का.आ. 2185.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु ओस्मानिया यूनिवर्सिटी, हैदराबाद द्वारा प्रदत्त चिकित्सा अर्हता एम बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यताप्राप्त चिकित्सा अर्हता है;

और, डा. गोपीनाथन यज्ञस्वामी, कनाडा के नागरिक, जिनके पास उक्त अर्हता है, श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. गोपीनाथन यज्ञस्वामी द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि:—

(क) इस अधिसूचना के जारी होने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. गोपीनाथन यज्ञस्वामी श्री सत्य सांई जनरल अस्पताल, प्रशान्तिनिलयम, अनंतपुर जिला (आन्ध्र प्रदेश) से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं1 वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, 18th August, 2004

S.O. 2185.—Whereas medical qualification MBBS granted by Osmania University, Hyderabad is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Gopinathan Yegnaswami, a Canadian national, who possess the said qualification is attached to Sri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Dist, (Andhra Pradesh) for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Gopinathan Yegnaswami in India shall be limited to:—

(a) A period of six months from the date of issue of this notification; or

(b) The period during which Dr. Gopinathan Yegnaswami is attached to Sri Sathya Sai General Hospital, Prashanthi Nilayam, Ananthapur Dist, (Andhra Pradesh), whichever is shorter.

[No. V-11016/1/2004-ME(Policy-I)]

P. G. KALADHARAN, Under Secy.

नई दिल्ली, 18 अगस्त, 2004

का.आ. 2186.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु सिलोन यूनिवर्सिटी, श्रीलंका द्वारा प्रदत्त चिकित्सा अर्हता एस बी बी एस; उक्त अधिनियम की धारा 14 के अधीन एक मान्यताप्राप्त चिकित्सा अर्हता है;

और, डा. कुमारास्वामी कृष्णादासन, अमेरिकी नागरिक, जिनके पास उक्त अर्हता है, श्री सत्य साई इंस्टीट्यूट ऑफ हायर मेडिकल सांइसेज , प्रशान्तिग्राम, अनंतपुर जिला (आन्ध्र प्रदेश) से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. कुमारास्वामी कृष्णादासन द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि:—

(क) इस अधिसूचना के जारी होने की तिथि से छह माह की अवधि; अथवा

(ख) उस अवधि, जिसके दौरान डा. कुमारास्वामी कृष्णादासन श्री सत्य सांई इंस्टीट्यूटऑफ हायर मेडिकल सांइसेज , प्रशान्तिग्राम, अनंतपुर जिला (आन्ध्र प्रदेश) से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं. वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, 18th August, 2004

S.O. 2186.—Whereas medical qualification MBBS granted by University of Ceylon, Srilanka is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Cumaraswamy Krishnadasan, an American national, who possess the said qualification is attached to Sri Sathya Sai Institute of Higher Medical Sciences, Prashanthigram, Ananthapur Dist. (Andhra Pradesh) for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Cumaraswamy Krishnadasan in India shall be limited to:—

(a) A period of six months from the date of issue of this notification; or

(b) The period during which Dr. Cumaraswamy Krishnadasan is attached to Sri Sathya Sai Institute of Higher Medical Sciences, Prashanthigram, Ananthapur Dist, (Andhra Pradesh), whichever is shorter.

[No. V-11016/1/2004-ME(Policy-I]

P. G. KALADHARAN, Under Secy.

नई दिल्ली 18 अगस्त, 2004

का.आ. 2187.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु जर्मनी के स्वास्थ्य मंत्रालय द्वारा प्रदत्त चिकित्सा अर्हता डिप्लोमा (मेडिसिन); उक्त अधिनियम की धारा 14 के अधीन एक मान्यताप्राप्त चिकित्सा अर्हता है;

और, डा. टाममैथ्यु थीमपलांगड थामस अमेरिकी नागरिक, जिनके पास उक्त अर्हता है, मुंडकायम मेडिकल ट्रस्ट हास्पिटल, मुंडकायम ईस्ट, पी.ओ. इडुक्की जिला, केरल से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़े हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा. टाममैथ्यु थीमपलांगड द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) मई, 2004 से 6 माह की अवधि; अथवा

(ख) उस अवधि जिसके दौरान डा. टाममैथ्यु थीमपलांगड थामस मुंडकायम मेडिकल ट्रस्ट हास्पिटल, मुंडकायम ईस्ट, से जुड़े हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं. वी-11016/1/2004-एम ई (नीति-I)]

पी. जी. कलाधरण, अवर सचिव

New Delhi, 18th August 2004

S.O. 2187.—Whereas medical qualification Diploma (Medicine) granted by Health Ministry of Germany is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Tommathew Theempalangad Thomas, American national, who possess the said qualification is attached to Mundakayam Medical Trust Hospital, Mundakayam East, P.O. Idduki Dist, Kerala for the purpose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Tommathew Theempalangad Thomas in India shall be limited to :—

(a) A period of six months from May, 2004 onwards; or

(b) the period during which Dr. Tommathew Theempalangad Thomas is attached to Mundakayam Medical Trust Hospital, Mundakayam East , P.O. Idduki Dist, Kerala, whichever is shorter.

[No.V-11016/1/2004-ME(Policy-I)]
P. G. KALADHARAN, Under Secy.

नई दिल्ली 18 अगस्त, 2004

का.आ. 2188.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन हेतु ट्वेर स्टेट मेडिकल एकेडमी, रूस द्वारा प्रदत्त चिकित्सा अर्हता एम. डी; फिजिशियन; उक्त अधिनियम की धारा 14 के अधीन एक मान्यताप्राप्त चिकित्सा अर्हता है;

और, डा. सुविधा मिश्रा (कांडेल) नेपाली नागरिक, जिनके पास उक्त अर्हता है, सरोज हास्पिटल, सेक्टर-14, मधुबन चौक, रोहिणी, नई दिल्ली-110085 से धर्मार्थ (चैरिटेबल) कार्य हेतु और न कि व्यक्तिगत लाभ हेतु जुड़ी हैं;

अत: अब, उक्त अधिनियम की धारा 14 की उप-धारा (1) के खण्ड (ग) के अनुसरण में, केन्द्र सरकार एतद्द्वारा विनिर्दिष्ट करती है कि भारत में डा० सुविधा मिश्रा (कांडेल) द्वारा आयुर्विज्ञान की प्रैक्टिस करने की अवधि :—

(क) इस अधिसूचना के जारी होने की तिथि से एक वर्ष की अवधि; अथवा

(ख) उस अवधि जिसके दौरान डा. सुविधा मिश्रा (कांडेल) सरोज हास्पिटल, सेक्टर-14, मधुबन चौक, रोहिणी, नई दिल्ली-110085 से जुड़ी हैं, इनमें से जो भी कम हो, तक सीमित रहेगी।

[सं. वी-11016/1/2004-एम ई (नीति-I)]
पी. जी. कलाधरण, अवर सचिव

New Delhi, 18th August, 2004

S.O. 2188.—Whereas medical qualification MD Physician granted by Tver State Medical Academy, Russia is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

And whereas Dr. Subidya Mishra (Kandel), a Nepali national, who possess the said qualification is attached to Saroj Hospital, Sector-14, Madhuban Chowk, Rohini, New Delhi-110085 for the prupose of charitable work and not for personal gain;

Now, therefore, in pursuance of clause (c) of sub-section (1) of Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Subidya Mishra (Kandel) in India shall be limited to :—

(a) a period of one year from the date of issue of this notification; or

(b) the period during which Dr. Subidya Mishra (Kandel) is attached to Saroj Hospital, Sector-14, Madhuban Chowk, Rohini, New Delhi-110085,whichever is shorter.

[No.V-11016/1/2004-ME(Policy-I)]
P. G. KALADHARAN, Under Secy.

विद्युत मंत्रालय

नई दिल्ली 23 अगस्त, 2004

का.आ. 2189.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में नेशनल हाइड्रोइलैक्ट्रिक पावर कारपोरेशन लि०, फरीदाबाद के प्रशासनिक नियंत्रणाधीन कार्यालय, कार्यपालक निदेशक क्षेत्र-2, बनीखेत, जिला चम्बा (हि०प्र०)-176303 को, जिनके 80 प्रतिशत कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्द्वारा अधिसूचित करती है।

[सं०11017/1/2004-हिंदी]

अजय शंकर, अपर सचिव

MINISTRY OF POWER

New Delhi, 23rd August, 2004

S.O. 2189.—In pursuance of sub rule (4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976 the Central Government hereby notifies Office of the Executive Director, R-II, Banikhet, Distt. Chamba (H.P.)-176303 under the administrative control of National Hydroelectric Power Corporation Ltd., Faridabad, the staff whereof have acquired 80% working knowledge of Hindi.

[No. 11017/1/2004-Hindi]

AJAY SHANKAR, Addl. Secy.

नई दिल्ली 24 अगस्त, 2004

का. आ. 2190.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में पावरग्रिड कारपोरेशन ऑफ इंडिया लि०, गुड़गांव के प्रशासनिक नियंत्रणाधीन पावरग्रिड कारपोरेशन ऑफ इंडिया लि०, 220/132 के०वी० उप केन्द्र, आरा-सासाराम मार्ग, गांव/पो०ओ० दक्षिण एकौना, आरा, भोजपुर, बिहार-802210 को, जिनके 80 प्रतिशत कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्द्वारा अधिसूचित करती है।

[सं० 11017/1/2004-हिंदी]

अजय शंकर, अपर सचिव

New Delhi, 24th August, 2004

S.O. 2190.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976 the Central Government hereby notifies Powergrid Corporation of India Ltd., 220/132 K.V. Sub Station, Ara-Sasaram Road, Village/P.O. South Ekawana, Ara, Bhojpur, Bihar-802210 under the administrative control of Powergrid Corporation of India Ltd., Gurgaon, the staff whereof have acquired 80% working knowledge of Hindi.

[No. 11017/1/2004-Hindi]

AJAY SHANKAR, Addl. Secy.

इस्पात मंत्रालय

नई दिल्ली, 19 अगस्त, 2004

का. आ. 2191.—राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम-10 के उप नियम (4) के अनुसरण में केन्द्रीय सरकार एतद्द्वारा इस्पात मंत्रालय के प्रशासनिक नियंत्रणाधीन फैरो स्क्रैप निगम लिमिटेड की दुर्गापुर इकाई जिसके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[सं. ई.-11011/6/2001-हिन्दी]

अनीताप्रवीण, निदेशक

MINISTRY OF STEEL

New Delhi, the 19th August, 2004

S. O. 2191.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for official purpose of the Union) Rules, 1976 (as amended, 1987) the Central Government hereby notifies the Durgapur Unit of Ferro Scrap Nigam Limited, Bhilai under the administrative control of Ministry of Steel, where more than 80% staff have acquired working knowledge of Hindi.

[No. E-11011/6/2001-HINDI]

ANITA PARVEEN, Director.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 26 अगस्त, 2004

का. आ. 2192.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया, किये गये हैं :—

अनुसूची

क्र० सं०	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 1110 : 1990	संशोधन सं० 2 अप्रैल 2004	30-04-2004
2.	आईएस 2470 (भाग 2) : 1985	संशोधन सं० 1 अप्रैल 2004	30-04-2004
3.	आईएस 3196 (भाग 1) : 1992	संशोधन सं. 4 मार्च 2004	14-07-2004
4.	आईएस 3196 (भाग 3) : 1991	संशोधन सं० 2 अप्रैल 2004	30-04-2004
5.	आईएस 4880 (भाग 1) : 1987	संशोधन सं० 1 मार्च 2004	31-03-2003
6.	आईएस 5878 (भाग 1) : 1971	संशोधन सं० 2 मार्च 2003	31-03-2003
7.	आईएस 8151 : 1976	संशोधन सं० 2 अप्रैल 2004	30-04-2004
8.	आईएस 9031 : 1992	संशोधन सं० 1 मई 2004	31-05-2004
9.	आईएस 10810 (भाग 61) : 1988	संशोधन सं० 1 मार्च 2004	31-03-2004
10.	आईएस 11639 (भाग 3) : 1996	संशोधन सं० 2 मार्च 2004	31-03-2004
11.	आईएस 11951 : 1987	संशोधन सं० 4 मई 2004	02-08-2004
12.	आईएस 12300 : 1988	संशोधन सं० 2 अप्रैल 2004	22-07-2004
13.	आईएस 12633 : 1989	संशोधन सं० 2 मार्च 2004	31-03-2004
14.	आईएस 12709 : 1994	संशोधन सं० 3 अप्रैल 2004	31-05-2004
15.	आईएस 14735 : 1999	संशोधन सं० 1 अप्रैल 2004	06-04-2004
16.	आईएस 15028 : 2001	संशोधन सं० 1 अप्रैल 2004	30-04-2004

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पूणे तथा तिरूवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. : सीएमडी-4/13 : 5]

बलवन्त राय, उप-महानिदेशक

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 26th August, 2004

S. O. 2192.—In pursuance of clause (b) of Sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments of the Indian Standards,

particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 1110 : 1990	Amendment No 2 April 2004	30-04-2004
2.	IS 2470 (Part 2) : 1985	Amendment No 1 April 2004	30-04-2004
3.	IS 3196 (Part 1) : 1992	Amendment No 4 March 2004	14-07-2004
4.	IS 3196 (Part 3) : 1991	Amendment No 2 April 2004	30-04-2004
5.	IS 4880 (Part 1) : 1987	Amendment No 1 March 2004	31-03-2004
6.	IS 5878 (Part 1) : 1971	Amendment No 2 March 2003	31-03-2003
7.	IS 8151 : 1976	Amendment No 2 April 2004	30-04-2004
8.	IS 9031 : 1992	Amendment No 1 May 2004	31-05-2004
9.	IS 10810 (Part 6) : 1988	Amendment No 1 March 2004	31-03-2004
10.	IS 11639 (Part 3) : 1996	Amendment No 2 March 2004	31-03-2004
11.	IS 11951 : 1987	Amendment No 4 May 2004	02-08-2004
12.	IS 12300 : 1988	Amendment No 2 April 2004	22-07-2004
13.	IS 12633 : 1989	Amendment No 2 March 2004	31-03-2004
14.	IS 12709 : 1994	Amendment No 3 April 2004	31-05-2004
15.	IS 14735 : 1999	Amendment No 1 April 2004	06-04-2004
16.	IS 15028 : 2001	Amendment No 1 April 2004	30-04-2004

Copy of these amendments are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Office : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. CMD/13 : 5]
BALWANT RAI, Deputy Director General (Marks)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 27 अगस्त, 2004

का. आ. 2193— .—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि तमिलनाडु राज्य में एस.वी. स्टेशन (मरैकनचावडी) से कन्नप्पन स्टील पाइपलाइन परियोजना तक प्राकृतिक गैस के परिवहन के लिए गेल (इंडिया) लिमिटेड द्वारा, एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अत: अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में, विशेष तहसीलदार (आर.ओ.यू.) एवं सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, कावेरी बेसिन, नागापट्टिनम-611 001 (तमिलनाडु) को लिखित रूप में आपेक्ष भेज सकेगा ।

अनुसूची

जिला	तहसील	गाँव	सर्वे नं.	आर.ओ.यू. अर्जित करने के लिए क्षेत्रफल (हेक्टेयर में)
1	2	3	4	5
नगपट्टिनम्	नगपट्टिनम्	थिटाचेरी	161	0.02.0 जीपी
			162-5	0.01.5
			162-6बी	0.05.5

1	2	3	4	5
नगपट्टिनम्	नगपट्टिनम्	थिटाचेरी	162-7	0.09.0
			162-10	0.06.5
			254-1	0.03.5
			254-2ए1	0.03.0
			254-2ए2	0.12.0
			254-2जी	0.01.5
			254-2एल	0.04.5
			254-7	0.05.5
			264-2	0.06.0
			263-1	0.06.5
			263-2	0.02.0
			265-5ए	0.01.0
			265-5बी	0.01.0
			265-6	0.04.0
			265-7	0.10.0
			265-8	0.04.0
			272-1	0.01.0 जी पी
			272-4	0.09.0
			272-5	0.01.5
			272-6	0.01.5
			271-1	0.01.5 जी पी
			271-4	0.02.5
			271-5	0.11.5
			270-1	0.08.0
			273-1	0.01.0
			273-2	0.02.0 जी पी
			269-1	0.02.5
			269-3	0.11.5
			268-1	0.02.5 जी पी
			268-2	0.01.0
			कुल	**1.47.0**
नगपट्टिनम्	नगपट्टिनम्	पननगुडी	6-2	0.01.0
			6-3	0.00.5
			6-6	0.01.5 जी पी
			5-4ए	0.05.5
			7-1	0.12.0
			7-2बी	0.05.0
			7-2सी	0.00.5
			7-2डी	0.03.0
			8	0.32.5
			12-2ए	0.19.5
			12-2बी	0.03.0
			12-3	0.01.5

1	2	3	4	5
नगपट्टिनम्	नगपट्टिनम्	पननगुडी	11-1ए	0.01.0
			11-2बी	0.10.0
			11-5	0.06.5
			11-6	0.01.0
			26-4बी	0.00.5
			26-8	0.00.5
			28-1	0.12.5
			27-1	0.00.5
			27-9	0.01.0
			62-1	0.09.5
			62-2	0.05.5
			62-3	0.01.0
			60-1	0.01.5
			60-3	0.09.0
			60-5	0.01.0
			56-1ए2	0.01.0
			56-1बी	0.09.0
			59-1	0.00.5 जी पी
			57-1ए	0.04.5
			57-1बी	0.12.0
			57-2	0.00.5 जी पी
			58-1ए	0.03.0
			58-1बी	0.02.0
			58-2ए	0.02.0
			58-2बी	0.05.0
			69-1ए1	0.03.0
			69-1ए4	0.06.0
			69-2	0.01.0
			69-3	0.01.0
			69-1बी	0.07.0
			69-5	0.01.5
			118	0.01.5 जी पी
			122-1	0.03.5
			122-2बी	0.09.0
			123	0.01.0 जी पी
			124-5ए	0.07.5
			124-5बी	0.07.0
			127-1	0.00.5 जी पी
			127-6	0.12.5
			128-1	0.01.5 जी पी
			128-4	0.08.0
			128-6	0.01.0

1	2	3	4	5
नगपट्टिनम्	नगपट्टिनम्	पननगुडी	128-3ए	0.09.0
			145	0.03.0
			144-1ए	0.01.0 जी पी
			144-8बी1	0.06.0
			144-10	0.01.5
			143 1ए2	0.12.0
			143 1ए3	0.08.0
			138-5	0.110
			138-6	0.12.0
			161-2ए	0.74.0 जी पी
			159-2	0.10.0 जी पी
			कुल	3.85.5 जी पी

[फा. सं.-एल 14014/21/104-जी.पी]

एस.बी. मण्डल, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 27th August 2004

S.O. 2193.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas through SV Station (Maraikkanchavadi) to Kannappan Steel pipeline project in the State of Tamilnadu, a pipeline should be laid by the GAIL (India) Limited;

And, whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to the Special Tehsildar (ROU) and Competent Authority, GAIL (India) Limited, Cauveri Basin, Nagapattinam-611 001 (Tamilnadu).

SCHEDULE

Distt.	**Tehsil**	**Village**	**Survey No.**	**Area to be Acquired for R.O.U. (In Hectares)**
1	2	3	4	5
Naga-	Naga-	Thitta-	161	0.02.0 GP
pattinam	pattinam	cherry	162-5	0.01.5
			162-6B	0.05.5
			162-7	0.09.0
			162-10	0.06.5
			254-1	0.03.5
			254-2A1	0.03.0
			254-2A2	0.12.0
			254-2G	0.01.5
			254-2L	0.04.5
			254-7	0.05.5
			264-2	0.06.0
			263-1	0.06.5
			263-2	0.02.0
			265-5A	0.01.0
			265-5B	0.01.0
			265-6	0.04.0
			265-7	0.10.0
			265-8	0.04.0
			272-1	0.01.0GP
			272-4	0.09.0
			272-5	0.01.5
			272-6	0.01.5
			271-1	0.01.5GP
			271-4	0.02.5
			271-5	0.11.5
			270-1	0.08.0
			273-1	0.01.0
			273-2	0.02.0GP
			269-1	0.02.5
			269-3	0.11.5
			268-1	0.02.5GP
			268-2	0.01.0
			TOTAL	**1.47.0**
Naga-	Naga-	Panan-	6-2	0.01.0
pattinam	pattinam	gudy	6-3	0.00.5
			6-6	0.01.5GP
			5-4A	0.05.5
			7-1	0.12.0
			7-2B	0.05.0
			7-2C	0.00.5
			7-2D	0.03.0
			8	0.32.5

1	2	3	4	5
Naga-pattinam	Naga-pattinam	Panan-gudy	12-2A	0.19.5
			12-2B	0.03.0
			12-3	0.01.5
			11-1A	0.01.0
			11-2B	0.10.0
			11-5	0.06.5
			11-6	0.01.0
			26-4B	0.00.5
			26-8	0.00.5
			28-1	0.12.5
			27-1	0.00.5
			27-9	0.01.0
			62-1	0.09.5
			62-2	0.05.5
			62-3	0.01.0
			60-1	0.01.5
			60-3	0.09.0
			60-5	0.01.0
			56-1A2	0.01.0
			56-1B	0.09.0
			59-1	0.00.5GP
			57-1A	0.04.5
			57-1B	0.12.0
			57-2	0.00.5GP
			58-1A	0.03.0
			58-1B	0.02.0
			58-2A	0.02.0
			58-2B	0.05.5
			69-1A1	0.03.0
			69-1A4	0.06.0
			69-2	0.01.0
			69-3	0.01.0
			69-1B	0.07.0
			69-5	0.10.5
			118	0.01.5GP
			122-1	0.03.5
			122-2B	0.09.0
			123	0.01.0 GP
			124-5A	0.07.5
			124-5B	0.07.0
			127-1	0.00.5 GP
			127-6	0.12.5
			128-1	0.01.5 GP
			128-4	0.08.0
			128-6	0.01.0
			128-3A	0.09.0
			145	0.03.0
			144-1A	0.01.0 GP
			144-8B1	0.06.0
			144-10	0.01.5
			1431-A2	0.12.0
			1431-A3	0.08.0
			138-5	0.11.0
			138-6	0.12.0
			161-2A	0.74.0 GP
			159-2	0.10.0
			TOTAL	**3.85.5**

[F. No. L-14014/21/2004-G.P.]

S.B. MANDAL, Under Secy.

नई दिल्ली, 27 अगस्त, 2004

का. आ. 2194.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पांडिचेरी केन्द्र शासित प्रदेश में एस.वी. स्टेशन (मरैकनचावडी) से कन्नप्पन स्टील पाइपलाइन परियोजना तक प्राकृतिक गैस के परिवहन के लिए गेल (इंडिया) लिमिटेड द्वारा, एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में, विशेष तहसीलदार (आर.ओ.यू.) एवं सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, कावेरी बेसिन, नागापट्टिनम-611 001 (तमिलनाडु) को लिखित रूप में आपेक्ष भेज सकेगा ।

अनुसूची

जिला	तहसील	गाँव	सर्वे नं.	आर.ओ.यू. अर्जित करने के लिए क्षेत्रफल (हेक्टेयर में)
1	2	3	4	5
पांडिचेरी	कराइकल	बंजोर	6	0.09.5
			9	0.01.5
			कुल	**0.11.0**

[फा. सं. एल.-14014/21/04-जी.पी]

एस.बी. मण्डल, अवर सचिव

New Delhi, the 27th August, 2004

S.O. 2194.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas through SV Station (Maraikkanchavadi) to Kannappan Steel pipeline project in Union Territory of Pondicherry, a pipeline should be laid by the GAIL (India) Limited;

And, whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to the Special Tehsildar (ROU) and Competent Authority, GAIL (India) Limited, Cauveri Basin, Nagapattinam-611 001 (Tamilnadu).

SCHEDULE

Distt.	**Tehsil**	**Village**	**Survey No.**	**Area to be Acquire for R.O.U. (In Hectares)**
1	2	3	4	5
Pondy-cherry	Karaikal	Vanjore	6	0.09.5
			9	0.01.5
			TOTAL	**1.11.0**

[F. No. L-14014/21/04-G.P]

S. B. MANDAL, Under Secy.

नई दिल्ली, 27 अगस्त, 2004

का. आ. 2195.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि उत्तर प्रदेश राज्य में आगरा सिटी गेट स्टेशन से फिरोजाबाद (लूप लाइन) तक प्राकृतिक गैस के परिवहन के लिए गेल (इंडिया) लिमिटेड द्वारा, एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में, श्री बी.एम. मिश्र, सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, बी-35 व 36, सैक्टर-1, नोएडा-201 301 (उत्तर प्रदेश) को लिखित रूप में आपेक्ष भेज सकेगा।

अनुसूची

जिला	तहसील	गाँव	सर्वे नं.	आर.ओ.यू. अर्जित करने के लिए क्षेत्रफल (हेक्टेयर में)
1	2	3	4	5
फिरोजाबाद	टूण्डला	जरौली कलाँ	760	0.0224
			761	0.0288
			762	0.0320
			795	0.0288
			779	0.0320
			780	0.0992
			704	0.1188
			702	0,0640
			699	0.0320
			700	0.0192
			692	0.0288
			664	0.0480
			666	0.1504
			668	0.0064
			669	0.0320
			631	0.0544
			299	0.0160
			298	0.0224
			297	0.0224

1	2	3	4	5
फिरोजाबाद	टून्डला	जरौली कला	296	0.0224
			304	0.0288
			301	0.1312
			302	0.0960
			218	0.0672
			180	0.2400
			695	0.0216
			703	0.0032
			300	0.0224
			670	0.0060
			303	0.0040
			कुल	**1.5008**

[फा. सं. एल-14014/23/04-जी.पी]

एस.बी. मण्डल, अवर सचिव

New Delhi, 27th August 2004

S.O. 2195.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas from Agra City Gate Station to Firozabad (Loop Line), in the State of Uttar Pradesh, a pipeline should be laid by the GAIL (India) Limited;

And, whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to Shri B.M. Mishra Competent Authority, GAIL (India) Limited, B-35 & 36, Sector-1, Noida-201 301 (Uttar Pradesh).

SCHEDULE

Distt.	Tehsil	Village	Khasra No.	Area to be Acquire for R.O.U. (In Hectares)
1	2	3	4	5
Firozabad	Tundla	Jarouli Kalan	760	0.0224
			761	0.0288
			762	0.0320
			795	0.0288
			779	0.0320
			780	0.0992
			704	0.1188
			702	0,0640
			699	0.0320
			700	0.0192
			692	0.0288
			664	0.0480
			666	0.1504
			668	0.0064
			669	0.0320
			631	0.0544
			299	0.0160
			298	0.0224
			297	0.0224
			296	0.0224
			304	0.0288
			301	0.1312
			302	0.0960
			218	0.0672
			180	0.2400
			695	0.0216
			703	0.0032
			300	0.0224
			670	0.0060
			303	0.0040
			TOTAL	**1.5008**

[F. No. L-14014/23/04-G.P.]

S.B. MANDAL, Under Secy.

शहरी विकास मंत्रालय

नई दिल्ली 1 सितम्बर, 2004

का.आ. 2196.—यह एतद्द्वारा अधिसूचित किया जाता है कि राजघाट समाधि समिति अधिनियम, 1951 (1951 का 41वाँ) की धारा 4 की उपधारा (1) के खण्ड (घ) के अनुसार श्री गुलाम नबी आजाद, संसद सदस्य, के स्थान पर कुमारी निर्मला देशपाण्डे, सदस्या राज्य सभा, को राजघाट समाधि समिति के सदस्य के रूप में निर्वाचित किया गया है।

[सं० 25011/7/85-डब्ल्यू-2]

देवेन्द्र कुमार, अवर सचिव

MINISTRY OF URBAN DEVELOPMENT

New Delhi 1st, September, 2004

S.O. 2196.— It is hereby notified that Kumari Nirmala Deshpande, Member of the Rajya Sabha has been elected as Member of the Rajghat Samadhi Committee in accordance with the Clause (d) of Sub-section (1) of Section 4 of the Rajghat Samadhi Committee Act, 1951 (41 of 1951) in place of Shri Ghulam Nabi Azad, Member of Parliament.

[No. 25011/7/85-W2]

DEVINDER KUMAR, Under Secy.

श्रम मंत्रालय

नई दिल्ली, 4 अगस्त, 2004

का.आ. 2197.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान पेट्रोलियम कार्पो. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय पुणे, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-08-2004 को प्राप्त हुआ था।

[सं० एल.-30012/73/2001-आई. आर. (एम)]

बी. एम. डेविड, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 4th, August, 2004

S.O. 2197.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court, Pune as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Petroleum Corpn. Ltd., and their workman, which was received by the Central Government on 04-08-2004.

[No. L-30012/73/2001-IR (M)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE SHRI S.M. KOLHE, INDUSTRIAL TRIBUNAL, PUNE

REFERENCE (IT) NO. 9 OF 2002.

BETWEEN:

Hindustan Petroleum Corporation Ltd. : First Party

The Deputy Manager,
Loni Terminal,
Loni Kalbhor,
Pune (Maharashtra)-411 001.

AND

Their workmen : Second Party

In the matter of : Reference for adjudication of the dispute over the demand, as mentioned in the Schedule to the order of the Reference.

APPEARANCES:

Second Party. : **Absent.**

Shri A.K. Gupte, advocate for the First Party Management.

Dated, the 16th July, 2004

AWARD

1. This Reference is made by the Under Secretary of Ministry of Labour (Shram Mantralaya) of Government of India, under Sub-section (d) of sub-Section (1) and Sub-Section 2-A of Section 10 of the Industrial Disputes Act, 1947, for adjudication of the dispute between the Management of Hindustan Petroleum Corporation Ltd., The Deputy Manager, Loni Terminal, Loni Kalbhor, Pune (Maharashtra), Pune-411 001.... First Party and the workmen employed under them, ...Second Party.

Adjudication pertains to :—

> "Whether the claim of the workmen —Shri Shankar Prabhakar Kamble and Shri Satish Maruti Kamble, that they were engaged continuously by the Management of Hindustan Petroleum Corporation, Ltd., Loni Terminal and whether the action of the management of HPCL in terminating their services w.e.f. 27-6-1998. and 1-10-1999, respectively, is legal and justified? If not, to what relief the concerned employees are entitled to?"

2. The second party and the advocate for the Second party are absent, when called -out, repteadly. Advocate for the first party is present.

3. It is revealed from the **'Roznama'** of this matter that the second party and the advocate for the second party are not attending the Tribunal, for the last more than six months. In fact, the matter is adjourned for the evidence of the second party, from time to time. Sufficient opportunity is already given till today to the second party to adduce the evidence. It appears that the second party is not interested in proceeding with the matter. In such circumstances, the demand of the second party is not substantiated and the Reference deserves to be disposed of. Award accordingly.

Dated 16th July, 2004

S. M. KOLHE, Industrial Tribunal

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2198.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर, के पंचाट (संदर्भ संख्या 39/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-08-2004 को प्राप्त हुआ था।

[सं० एल.-12012/17/97-आई. आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 5th, August, 2004

S.O. 2198.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 39/98) of the Central Govt. Industrial Tribunal-cum-Labour Court, Kanpur, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 04-08-2004.

[No. L-12012/17/97-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SHRI SURESH CHANDRA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SARVODAYA NAGAR, KANPUR, U.P.

Industrial Dispute No. 39 of 1998

In the matter of dispute between :

Sri Dilip Kumar
C/o Sri B.P. saxena,
426-W-2, Basant Vihar.
Kanpur.

And

Regional Manager
Bank of India,
Civil Lines,
Kanpur.

AWARD

1. Central Government Ministry of Labour & Employment, New Delhi, vide its notification No. L-12012/17/97/IR(B-II) dated 27-2-98 has referred the following dispute for adjudication to this Tribunal :—

> "Whether the action of the management of Bank of India in terminating the services of Sh. Dilip Kumar w.e.f. 12-4-96 is legal and justified? If not, to what the said workman is entitled ?"

2. The case of the workman as set up by him in his statement of claim is that the branch manager of Birhana Road Branch Kanpur, offered him employment at the post of temporary sepoy and he started working in the branch of the Bank w.e.f. 19-7-89. The workman has further stated that he was required to work from 9.30 a.m. to 6.30 p.m. on weeks days and from 9.30 a.m. to 3/4.00 p.m. on Saturday and the workman was required to work for 2 to $2^1/_2$ hours more than the prescribed duty hours of the sepoys in the bank. It has further been alleged by the workman. that he was required to perform the duties of dusting and cleaning the office furniture, taking out ledgers and other books of the bank and arranging the same on counters, moving the vouchers, cheques, registers and taking payment instruments to the cash department and providing water to staff and customers etc. Though the workman was required to work for more than hours prescribed for subordinate in the bank, he was not paid wages prescribed for subordinate staff (sepoy). Instead he was paid salary @25/- per day which was raised to Rs. 30/-, 35/- and lastly Rs. 40/- per day excluding the holidays and Sundays. In this way the services of the workman were exploited by the bank which amounts to unfair labour practice. It is further alleged by the workman that the above payments were not made by the branch manager of the bank through paysheet or payment vouchers rather he used to obtain payment himself and subsequently the payment were made to the workman in cash. The method of payment was adopted to defeat the claim of the workman for regularisation in permanent service of the bank. The workman has further alleged that he continued to work from 19-7-89 upto 12-4-96, when his services were abruptly terminated by the bank without assigning any reason. It is also alleged by the workman that the management of the bank had neither issued any appointment letter nor termination letter. The workman goes on to state that the management of the bank did not pay any retrenchment compensation and thus the management has breached the provisions of Section 25F of the Industrial Disputes Act, 1947. It has also been alleged by the workman that two other temporary sepoys by name Sri Virendra Kumar Yadav and Sri Raju Pandey were working at bank's Birhana Road Kanpur Branch and they were junior to him. They were retained in the service of the bank whereas he was terminated from service and in this way the bank has violated the provisions of Section 25G of Industrial Disputes Act, 1947. The workman has also pleaded breach of provisions of Section 25H of I.D. Act. In the end on the basis of above pleadings it has been prayed by the workman that since he has rendered more than 240 days of continuous service and since no retrenchment compensation was paid to him at the time of termination of his service the workman be reinstated in service with full back wages and consequential benefits.

3. The management bank contested the claim of the workman and filed its written statement stating therein that the workman had never been in the employment of the bank as peon (sepoy) nor any such work was ever taken from him during the period in question as such Dilip Kumar does not ful-fill the condition of employee nor that of employed, thus he is not entitled to claim any relief under the Act. Bank has further pleaded that when he has not worked against any regular vacancy of sepoy nor any such vacancy was existing during the relevant period nor at present any such vacancy exist in the concerned branch. Bank has further alleged that as per recruitment rules the vacancies are to be notified to the employment exchange for sponsoring the names of eligible candidates for preparation of panel by selection through interview for filling no regular and permanent vacancy of sepoy (Peon) as also for temporary employment exceeding three months' duration and the apponinting authority in the matter of Sepoy is the Regional Manager. No Officer of the bank at branch level is even competent to engage or appoint any peon in the employment of the bank whether temporarily or permanently. It has been denied by the bank that the chief manager of the bank had offered the employment to the workman in the bank as temporary sepoy (Peon). Bank has further alleged that workman has planted a futile story to seek back door entry in the service of the bank. The management of bank has also denied that the concerned workman is a workman as defined under Section 2(s) of the Act. It has been pleaded by the management that the work of adhoc nature and casual nature during peak hours of

bank business was taken from the concerned workman and not otherwise. It has been denined by the management that the work of regular and permanent nature was ever taken from the workman, as the branch concerned was adequately staffed with sufficient strength of regular sepoys posted in the branch. Bank has further denied that the workman was ever asked to work more than the prescribed hours of work for subordinate staff and the workman was intermittently engaged as a casual labour on daily wages for supply of drinking water etc. Management of bank has also denied that the services of the workman was ever terminated by the bank. The workman is not entitled for any retrenchment compensation as claimed by him and that the provisions of Section 25F of the Act is not applicable to the concerned workman being a casual daily wager. It has also been denied by the managment of the bank that Sri Virendra Kumar Yadav and Sri Raju Pandey were junior to the concerned workman and that they were retained in service after the workman. Thus the allegation of breach of provision of Section 25G is denied. Bank has denied engagement of any temporary sepoy at the branch after the concerned workman thus the concerned workman is not entitled to claim any benefit of Section 25H of the Act. It has been alleged by the bank that the casual daily wager has no right to claim benefits of Section 25F, 25G and 25H of the Act. In the end it has been alleged by the bank that the claim of the workman is liable to be rejected and the reference may be answered in favour of the management, as the action of the management has all along been quite legal and just.

3. The workman has filed rejoinder but nothing new has been pleaded therein except reiterating the facts alleged in his statement of claim.

4. Contesting parties have led evidence in support of their stands and also filed documentary evidence in their support. On behalf of workman, workman Sri Dilip Kumar has examined himself as W.W. 1 and has relied on documents filed by him per list dated 16-11-98. To rebut the same the management has relied on documentary evidence and has also examined management witness No. 1 Sri K.N. Dave and Sri Prem Kumar Chief Manager as Management witness No. 2. The management has also filed documents depicting a loan application moved by the workman and the sanction of loan order by the management thereon from time to time.

5. Heard the parties.

6. The management has categorically denied having ever appointed the so called workman Sri Dilip Kumar and has stated that no work was ever taken from workman as alleged. The witness also stated that the service of cleaning etc., were taken from Dilip Kumar on casual basis whenever a regular employee was on leave or it was felt as an urgent need of some additional work. The case and occular testimony of the workman witness itself is that he was employed by the bank through the Deputy Manager as sepoy of the bank and that he had performed all the duties of the peon at the branch of the bank. In cross examination this witness has however, admitted that he was given lessor wages and allowances as compared to the regular peons or sepoys recruitted in the bank. He further admits that he never objects to this fact with the bank authorities.

7. The only question therefore which needs consideration is whether the workman Dilip Kumar had succeeded in establishing the fact that he was employed by the bank as peon/sepoy by Deputy Manager of the bank on regular basis and that he was disengaged or his services were terminated by the bank without making payment of retrenchment compensation or notice pay. The workman has not filed any appointment letter to show that he was ever appointed by the management of the bank as peon. It has been argued on behalf of the bank that in the absence of any appointment letter the disengagement of the casual worker does not amount to retrenchment as laid down under provisions of Section 10(i)(c) of the Act. The workman as alleged by Sri Dilip Kumar cannot be accepted as workman of the bank as defined under the definition of workman. The contention of the management finds support from the law laid down by the Hon'ble High Court of Bihar reported in 2001 FLR 824 Pramod Kumar *versus* State of Bihar and others. The contention advanced by the management is also fortified by the law laid down by Hon'ble Apex Court reported in 1997 FLR (76) page 237 H.K. Vidyarthi *versus* State of Bihar and others wherein it has clearly laid down that service of a daily wager is terminated then he had no right to the post and that his disengagement cannot be held to be arbitrary and that the case of such cannot be treated under the Industrial Disputes Act.

8. It has further been argued that there is a procedure of appointment prescribed by the bank for a job of sub staff or peon. The management witness has also stated that the Deputy Manager of the bank are not authorised to make appointment of peon or sepoy and that it is a job entrusted to the Regional Manager of the Bank. Therefore, if the contention of the workman is taken to be true that he was appointed by Deputy Manger of the bank the same too cannot be accepted as valid appointment and that the recruitment made against the recruitment procedure or omission to follow the prescribed procedure cannot validate the appointment if any made, in contradiction of the prescribed rules. The Hon'ble Supreme Court in a case reported in SCC 1997 (2) page 1 Ashwani Kumar and others *versus* State of Bihar and others considering unauthorised appointment was pleased to hold that such appointment or recruitment have got no validity.

9. The workman's case is that he was appointed by Deputy Manager and that he was a regular employee and worked for more than 240 days with the bank prior to his disengagement or retrenchment as claimed by him. The

occular testimony is in contradiction of the documentary evidence filed by the workman himself. The workman has filed a number of receipts which depicts that he was paid certain amount on account of job done as casual labour with the bank. The workman has not been able to establish by any evidence that he has worked for more than 240 days prior to his disengagement in the last calendar year.

10. Therefore, after considering the evidence adduced by the parties it can safely be held that the workman has failed to establish his case that he was a regular employee of the bank and that his services were terminated illegally and invalidly. The action of the management of bank of India in terminating the services of Sri Dilip Kumar w.e.f. 12-6-96 is therefore held to be legal and justified. For the above reasons the workman is not entitled for any relief.

11. Reference is, therefore, answered against the workman.

SURESH CHANDRA, Presiding Officer

शुद्धिपत्र

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2199.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल.आई.सी.ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 147/98) के शुद्धिपत्र को प्रकाशित करती है, जो कि केन्द्रीय सरकार द्वारा 01-03-2004 को अधिसूचित किया गया था।

[सं० एल-17012/50/97-आई. आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

CORRIGENDUM

New Delhi, the 5th August, 2004

S.O. 2199.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes a Corrigendum to the award (Ref. No. 147/98) of the.Central Govt. Industrial Tribunal-cum-Labour Court, No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workman, which was notified by the Central Government Vide Notification dated 01-03-2004.

[No. L-17012/50/97-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

I.D. No. 147/98

P.O : R. N. Rai

In the matter of :—

Shri Satinder Pal Singh

Versus

Senior Divisional Manager LIC of India, D.O.-II.

CORRIGENDUM

The word 'not' in the middle line of the concluding para may be treated as deleted.

Dated : 08-7-04

R.N. RAI, Presiding Officer

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2200.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 51/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-08-2004 को प्राप्त हुआ था।

[सं० एल-12012/221/98-आई. आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 5th, August, 2004

S.O. 2200.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 51/99) of the Central Govt. Industrial Tribunal-cum-Labour-Court Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 04-08-2004.

[No. L-12012/221/98-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SRI SURESH CHANDRA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT SARVODAYA NAGAR, KANPUR, U.P.

Industrial Dispute No. 51 of 99

In the matter of dispute between :

U.P. Bank Employees Union
Sh. Ashok Shukla
Secretary, UP Bank Employees Union,
58/45, Birhana Road, Kanpur.

And

The Assistant General Manager,
Bank of India
1 Naval Kishore Road,
Lucknow

AWARD

1. Central Government, Ministry of Labour & Employment, New Delhi, vide Notification No. L-12012/

221/98-IR(B.II) dated 9-3-99, has referred the following dispute for adjudication to this tribunal :—

"Whether the action of the management of Bank of India in awarding punishment to Sh. B.S. Tripathi was disproportionate to misconduct committed by him? If not, what relief the workman is entitled for ?"

2. The instant case after exchange of pleadings between the parties was taken up for hearing on 31-07-03. None appeared for the workman. Since the case was fixed for evidence of workman and as he was absent, he was debarred from adducing evidence in support of his case. The case was against taken up for management's evidence on 5-2-04, when the authorised representative for the management appeared and submitted before the tribunal that since the workman has been debarred from the adducing evidence as such management too does not want to adduce evidence in the case. The authorised representative for the bank has also made an endorsement on the order sheet of date 5-2-04.

3. Thus in the above circumstances it appears that virtually it is a case of no evidence by the parties and therefore, the tribunal is left with no other but to hold that the concerned workman has palpably failed to adduce evidence in support of his case and thereby he is not entitled for any relief as claimed by him in his statement of claim.

4. In view of the discussions made above it is held that the action of the management of Bank of India in awarding punishment to Sh. B.S. Tripathi was not disproportionate to misconduct committed by him. The workman is, therefore, not entitled for any relief pursuant to the reference made to this tribunal.

5. Reference is answered accordingly in favour of the bank and against the workman.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2201.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 76/92) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-08-2004 को प्राप्त हुआ था।

[सं० एल.-12011/25/92-आई. आर. (बी.-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 5th, August, 2004

S.O. 2201.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 76/92) of the Central Govt. Industrial Tribunal-cum-Labour No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 04-08-2004.

[No. L-12011/25/92-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II NEW DELHI

Presiding Officer : R.N. RAI. I. D. No. 76/92

In the matter of :

Central Bank Staff Union

Versus

Central Bank of India

AWARD

The Ministry of Labour by its letter No. L-12011/25/92/IR(B-II) Central Government, dt. 13-08-1992 has referred the following point for adjudication.

"Whether the action of the Central Bank of India in issuing Circular No. CO/90-91/467 dated 19-12-90 directing that the Special Allowance attached to the post of Armed Guard, Watchman should also be considered by that management while protecting the emoluments drawn by ex-servicemen while in Armed Forces, is justified ? If not, to what relief the workmen are entitled ?"

It has been stated by the Central Bank Staff Union on behalf of the workman in the statement of claim that there is a category of employees in the Bank, called "Watch and Ward Staff", consisting of two categories namely 'Watchmen" and "Armed Guard", Whose duties and functions were for the first time defined in items (V) and (VI) of part II of Appendix 'B' to the Bipartite Settlement dated 19-10-66.

It has been stated in the said biparite settlement dt. 19-10-1966 that persons other than 'Armed Guards' who are required to perform watch and ward duties i.e. to watch or look after the premises or a department for the purpose of its safety, security and guard against infiltration and against removal of Bank's property by and any unauthorized person and/or to watch and guard as above, the movement of cash from one place to another inside the bank premises or outside where an Armed Guard is not employed at the Branch Office.

In the VI part, the duties of Armed Guards have been defined and the duties of the Armed Guards are the same duties of the watchmen and even the retainers who perform duty of the watchmen or Armed Guards will be given special allowance for "Armed Guards" *pro rata*.

It has been submitted that the watchmen and the armed guards and the retainers will get special allowances as they discharged different type of duties. The special allowances so provided for them are to be paid to them for the aforesaid special duties/functions/responsibilities prescribed for them over and above the pay and allowances payable to the ordinary members of the subordinate staff as per the scheme for payment of special allowances laid down under "General Rules given in clauses 5.4 to 5.12 of the Bipartite Settlement dated 19-10-1966, extracted in Annexure W/1.

In para 5-6 of the Bipartite Settlement, it has been stated that special allowances are intended to compensate a workman for performance or discharge of certain additional duties and functions requiring greater skill or responsibility over and above the routine functions of a workman in the same cadre. The special allowances are over and above the pay drawn by the ordinary employees and these special allowances are to be paid to compensate the workman for discharging additional duties.

It has been further stated that the scale of pay and other allowances are the same for Armed Guards as for the ordinary members of the subordinate staff in all the Bipartite Settlements, the working hours of Armed Guards are 8 hours in the day as against 7.5 hours including half an hour's lunch recess for the ordinary members of subordinate staff including those getting other special allowances. However, no lunch recess is provided in the case of the Armed Guard. In other words, the actual number of hours for which an Armed Guard has to work are 8 hours a day as against 7 hours a day for other members of the subordinate staff. As such they are entitled to the special allowances but after the V Bipartite Settlement dt. 10-04-1989 which was retrospectively effected from 1-11-1987, the bank issued a circular dated 19-12-1990 which is referred to in the order of reference Annexure W/13 in which it was for the first time stipulated that the special allowances attached to the post of Armed Guard/ Watchmen in the banks should also be considered alongwith pay while giving protection to emoluments drawn in Armed Forces. "The said circular dt. 19-12-1990 has been challenged and it has been asserted that the ex-serviceman employed in the bank as watchmen, watch guards and retainers should get special allowances over and above the protection of their emoluments which they were drawing at the time of retirement or retrenchment. The substantial question is that the armed guards, watchmen and the retainers should be compensated by the special allowances for their additional duties and the additional allowances should not be made part of their emoluments at the time of fixation of their salary. Thus, it is to determine whether the armed guards, the watchmen or the retainers are still entitle to get special allowances when their pay of the armed forces at the time of retirement or retrenchment has been protected.

The management has filed written statement. It has been stated in the written statement that ex-servicemen who join bank's service shall be fitted in such a way so as to give total protection of pay which they were drawing in the armed forces. Subsequently, when the Bipartite Settlement namely, 4th and 5th settlements were signed, the bank issued further circulars advising all the branches that the fixation of pay of such ex-servicemen was to be revised on the basis of protection of pay drawn in the armed forces or at new basic pay plus dearness allowance as per 4th Bipartite Settlement which corresponds to the basic pay plus dearness allowance drawn by them in the armed forces.

It has been further stated that the total emoluments of ex-servicemen should be protected which they were drawing at the time they left the armed forces. The Ministry of Finance in their circular also categorically mentioned that protection may be given to the total emoluments plus DA which they were drawing when they left the armed forces.

It is stated that the union is trying to allege that while fixing the total emoluments of ex-servicemen after they left the armed forces and joined the bank a particular pay namely special allowance should not be added in the total emoluments while fixing the total salary of the ex-servicemen. If the ex-servicemen are paid the total emoluments, which they were getting at the time when they left the armed forces has been protected then special allowances shall be deemed to merge while protecting the emoluments of the ex-servicemen while fixing their salary. In case the emoluments drawn by the ex-servicemen at the time of their retirement or retrenchment are protected, there is no question of giving them special allowances. The fact is that the ex-servicemen of armed forces performed duty of security as they are doing in the bank and the emoluments of the armed forces have been protected, there is no question of giving them additional allowances as they are discharging the same duties which they where discharging in the armed forces. Govt. of India has also sent guidelines to the banks to protect the salaries of ex-servicemen which they drew in the armed forces at the time of retirement/retrenchment. He would be fitted at the minimum of the scale or at that level where the new basic pay and special allowance plus dearness allowance corresponds to basic pay and dearness allowance last drawn in the armed forces.

The union has filed rejoinder and in the rejoinder, they have reiterated the same facts and it has been asserted that special allowances should not be made part of the emoluments drawn by the ex-servicemen while they were serving the armed forces. Several Bipartite settlements have been referred to.

Heard arguments from both the sides and perused the papers on the record. Annexure W/1 is the first Bipartite settlement and in this settlement, special allowance has been permitted to the ex-servicemen for their additional duties and functions involving greater

skill or responsibility but their pay was not fixed protecting their total emoluments of the armed forces at the time of their retirement or retrenchment. As such, in the first Bipartite Settlement, there is a reference to special allowances to compensate the ex-servicemen as they were getting the salary which an ordinary employee of the sub-staff got so they were compensated by special allowances as they performed additional duties, But when the question of protection of total emoluments drawn by them at the time of retirement or retrenchment was permitted to them and they were fitted at the minimum of the scale or at that level where the new basic pay and the DA corresponds to the basic pay and DA last drawn in the armed forces. It implies that formerly the ex-servicemen were not getting the basic pay which they were drawing in the armed forces at the time of retirement or retrenchment so special allowance was given to them to compensate them but in case their total emoluments have been protected and their basic pay has been fixed at the rate at which they were drawing in the armed forces at the time or retirement or retrenchment, no question of giving special allowances to them arises. Annexure W/12 to W/18 have been annexed with the record. After perusal of these annexures regarding the fixation of pay and allowances of ex-servicemen employee in the bank, it transpires that they have been given the good conduct pay and the basic pay which they were drawing at the time of retirement or retrenchment in the armed forces. Thus, they are being paid the total emoluments which they were withdrawing while serving the armed forces. My attention was drawn to letter dt. 1-7-1983. It has been mentioned that before the implementation of 4th Bipartite Settlement, the ex-servicemen were given additional increment in the old scale to protect the pay drawn in the armed forces prior to their retirement. Similarly, it has been mentioned in circular dt. 19-12-1990 that the pay fixation of the ex-servicemen shall be done by way of protection of pay plus DA drawn by them at the time of retirement or release from the armed forces. With reference to the pay plus DA in the banks under V Bipartite Settlement, the special allowance attached to the post of armed guard or watchman in the banks should also be considered alongwith pay while giving protection to emoluments drawn in armed forces, the pay so calculated would be the basic pay for fixation.

It was further submitted from the side of the union that the special allowance should not be merged in the emoluments of armed guards and watchmen as they performed additional functions and duties and it is against the Bipartite Settlement. I have gone through all the Bipartite Settlements except the first Bipartite Settlement. In no other Bipartite Settlement, special allowance has been mentioned. Several letters have been issued for the protection of the total emoluments of the ex-servicemen and the total emoluments of the ex-servicemen have been protected by merging the special allowance in their emoluments and their basic pay was fixed taking into consideration the special allowances which were paid when they withdrew the salary of ordinary sub-staff at the time of joining the bank's service. Since the total emoluments drawn by the said ex-servicemen was not protected in the first Bipartite Settlement, and they were withdrawing the salary like other employees of their cadre so special allowance was given to them to compensate them for their extra duties and functions of greater skill. There is no force in the argument of the workman or the union that they should be given special allowance over and above the entire emoluments drawn by them at the time of retirement, retrenchment or release. In case, while joining bank's service, the ex-servicemen are paid the entire emoluments which they were getting while in armed forces, there is no question of giving any special allowances or more salary than they were drawing in the armed forces. If their total emoluments have been protected, they are not eligible for special allowance. By joining the bank's service, they should not get more payments, more emoluments than the emoluments which they were drawing in the armed forces. As the duties and functions which they are performing in the banks, were performed by them while serving the armed forces, there is no additional duties or functions of greater skill in the bank, than in the armed forces so they are entitled to draw the total emoluments which they were drawing while serving in the armed forces at the time of retirement, release or retrenchment. I have gone through all the letters and circulars issued by the bank and Bipartite Settlements. It has nowhere been mentioned that the ex-servicemen performing the duties of watchmen and guards should be given allowances even if their total emoluments of the armed forces are protected. As such, the letter dt. 12-12-1990 and letter of 1983 and circulars of 1983 and 1987 speak of the protection of the emoluments of the armed forces and their fitment in the scale of pay so that their emoluments in armed forces are protected. As such, there is no merit in the arguments of the union that they should be given special allowances over and above the protection of the total emoluments which they were drawing at the time of retirement, retrenchment or release. Since the ex-servicemen are performing the same duties as they performed in armed forces. No question of giving any additional or special allowances to the ex-servicemen arises.

The reference is replied thus :—

The action of the Central Bank of India in issuing circular No. CO/90-91/467 dated 19-12-90 directing that the Special Allowance attached to the post of Armed Guard, Watchman should also be considered by that management while protecting the emoluments drawn by ex-servicemen while in Armed Forces, is justified. The workmen are not entitled to get any relief as prayed for.

The award is given accordingly.

Dt. 19-07-2004 R. N. RAI, Presiding Officer

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2202.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 85/92 को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-08-2004 को प्राप्त हुआ था।

[सं० एल.-12012/178/92-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 5th August, 2004

S.O. 2202.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 85/92) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workmen which was received by the Central Government on 04-8-2004.

[No. L-12012/178/92-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II NEW DELHI

I.D. NO. 85/92

PRESIDING OFFICER: R.N. RAL

IN THE MATTER OF

J. N. DUBEY

VERSUS

CENTRAL BANK OF INDIA

AWARD

The Ministry of Labour by its letter No. L-12042/178/92/IR (B-II) Central Government Dt. 08-09-1992 has referred the following point for adjudication.

> "Whether the action of the management of Central Bank of India, Delhi was justified in not promoting Shri J. N. Dubey, Armed Guard from subordinate cadre to clerical cadre w.e.f. 1-10-1981 in accordance with the Promotion Policy dt. 20-12-1975 ? If not what relief the workman is entitled to."

The Union has filed statement of claims on behalf of the workman Shri J. N. Dubey. Shri Dubey was appointed as an Armed Guard in the Central Bank of India w.e.f. 2-11-1972 after his discharge from Military services from 31-1-1972.

Shri Dubey was a non-matriculate at the time of his appointment in the bank passed the High School examination of Board of High School and Intermediate Eduction in the year 1979 with English and general Mathematics among his subjects.

After passing the high school examination, the said workman applied for his promotion to clerical cadre in terms of the bank's policy for promotions from subordinate staff to clerical cadre and as per the circular issued by the Bank inviting applications from the eligible members of subordinate staff.

Shri Dubey was found eligible for promotion, was called by the bank to appear at a written test, Shri Dubey appeared at the said written test and he was declared successful therein alongwith servaral other candidates as per Bank's circular dt. 3-9-80.

That consequent upon passing the Bank's written test for promotion. Shri Dubey was called for interview alongwith other successful candidates, and he appeared at the interview, but the Bank neither promoted him nor did it declare or apprise Shri Dubey the result of the interview or the marks obtained by him at the written test and interview separately or in the aggragate. That Shri Dubey was the only ex-serviceman among the candidates who appeared in the above promotion test of 1980 and he was entitled to the benefit of reservation in promotions and consequent preference over the general category candidates.

That without notifying the result of the interview and the marks obtained by Shri Dubey, as stated above, he was again called for interview held on 30-09-1981 but he was not given promotion by the bank, nor his result of this IInd interview was declared.

That Shri Dubey was, thus, deprived of promotion to the clerical cadre inspite of his having passed the written test held on 6-4-1980. The management started harassing him in other ways also by subjecting him to frequent transfers in violation of Bank's own Transfer Policy and by even withholding the payment of conveyance allowance to which he was entitled being an orthopaedically handicapped employee inspite of his having produced the requsite medical certificates. This shows the malafide attempts of the management to victimize Shri Dubey and to deprive him of even his lawful entitlements including promotion through colourable exercise of management powers.

That Shri Dubey was, however, not deterred by these unfair methods, and practices of the management and in order to attain his objective of securing promotion to the clerical cadre, he continued his effors to improve his

academic educational qualifications.

That Shri Dubey appeared for Intermediate Examination of the Board of High School and Intermediate Education. U. P. in 1987 which he passed in IInd Division with English and Mathematics among his subjects and on getting the mark sheet and certificate of this examination, he submitted the copies to the bank for its information.

That Shri Dubey further appeared for the Shastri Examination of Sampurnanand Sanskrit Vishvavidyalaya, Varanasi, Part-I in 1988 and Part-II in 1989 and he passed both parts of the said examination, results of which was declared on 21-09-1989.

That the said degree was recognized by the Government as equivalent to B.A. and the Bank too was recognizing it as equivalent to B.A. for the pupose of promotions from subordinate staff to clerical cadre and for the purpose of granting educational increments for graduation.

That inspite of production of the aforesaid mark-sheet of the Shastri Examination by Shri Dubey, the bank did not effect the promotion of Shri Dubey to clerical cadre and avoided to do so on the ground that his promotion would be effected only on production of the final certificate from the concerned Vishvavidyalaya, although in all previous cases, the promotions were made on producation of mark-sheets of the same examination by the concerned members of the subordinate staff.

That the case of Shri Dubey for promotion to clerical cadre was also taken up by the Central Bank Staff Union but the management gave no inclination to settle the rightful claim of Shri Dubey for promotion to clerical cadre.

The respondent management has filed written statement. All the averments of the statement of claim have been denied and it has been stated that the record of examination pertains to the year 1980 which is obviously 13 years old and not traceable. The bank is trying to trace duplicate records kept in gunny bags at its godown in Naraina and further written statement would be submitted after the availability or non-availability of the said records. It has been further submitted that examination conducted by Varanasaya Sanskrit Vishwavidyalaya. Varanasi is not equivalent to B.A. In this regard, the bank submits that the University Grants Commission has informed the bank that the said university i.e. Varanasaya Sanskrit Vishwavidyalaya, Varanasi is a fake university so the certificate of Shri Dubey is from that university which is not recognised one. He has passed Prathma examination. The High Court allowed the petitioner to appear in the promotional test from subordinate staff to clerical cadre but ordered that the result of the petitioners should not be declared till the futher decision of the writ petition before the Delhi High Court. Varanasaya Sanskrit Vishwavidyalaya, Varnansi has been included under the list of fake Universities so his degree has got no importance and Shri Dubey cannot be given promotion on the basis of the certificate of a fake universities. Only a graduate of a recognized university is eligible for straightaway promotion to clerical cadre in the first available vacancy and an employee who has passed the high school or intermediate examination with English from a recognized board is permitted to appear in the clerical cadre examination. Shri Dubey appeared in the written test but he was called for interview and he did not get the required markes for passing the said examination. He was called for interview again and again but he failed in the interview so he would not be permitted on the basis of the examination and he was not permitted after submitting a certificate of a fake university.

The claimant has filed rejoinder. The claimant in his rejoinder has asserted that Varanasaya Sanskrit Vishwavidyalaya, Varanasi may be a fake university but he has produced the certificate of Sampurnanand Sanskrit Vishwavidyalaya, Varnasi and that university is a recognised university.

Heard arguments from both the sides and perused the papers on the record. It is of course true that Varanasaya Sanskrit Vishwavidyalaya, Varanasi is not a university which is recognized by the University Grants Commission. The University Grants Commission has considered Varanasaya Sanskrit Vishwavidayalaya, Varanasi a fake university but so is not the case with Sampurnanand Sanskrit Vishwavidalaya, Varanasi. It is a recognized university and it has been recognized by UGC. University Grants Commission published a list and in that list Sampurnanand Sanskrit Vishwavidalaya. Varanasi is having the name at sl. No. 124. So from these documents, it is quite evident that Sampurnanand Sanskrit Vishwavidalaya, Varanasi is a recognized university and Shri J.N. Dubey, the workman hs passed the Shastri examination and Shastri examinaation is equivalent to B.A. examination and after passing the Shastri examination, he ought to have been promoted.

It was vehemently argued by the management that Varanasaya Sanskrit Vishwavidalaya, Varanasi is not a recognized university.

I have persued the certificates of Shri Dubey and it is apparent that the certificates are from Sampurnanand Sanskrit Vishwavidyalaya, Varanasi and not of Varanasaya Sanskrit Vishwavidyalaya, Varanasi. University Grants Commission granted approval in 1983-84 to Sampuranand Sanskrit Vishwavidyalaya, Varanasi.

That the workman had been issued a memo dt. 31-1-1992 and thereafter departmental enquiry was initiated against him. It is stated by the management that as per clause 20.1 of the promotion policy the applicant is not entitled to be considered for promotion for a period of four years from the date the chargesheet is served on him or for a period of three years from the date the punishment order

is served on him, whichever is earlier. It has been stated by the management that all the other allegations of the workman against the bank, regarding harassment, transfers, non-payment of conveyance allowances are false.

That Shri Dubey is not suspended so the charge sheet of 1993 is no longer hurdle in his promotion. It has been held by the Hon'ble Orissa High Court that in case an enquiry is to be instituted, later on simply on that ground, the promotion of an employee cannot be postponed. So far as the case of Shri J.N. Dubey is concerned, even if for the time being, it is assumed to be true that he did not get qualifying marks in the interview. Still he passed the Shastri Examination in the year 1989 and the charge sheet was submitted to him in the year 1993, as such the charge sheet was submitted four years after his passing of the shastri examination which is equivalent to B.A. examination and it has been recognized as such by the respondent management also so he ought to have been given promotion after producing the mark sheet of shastri examination on 7-1-1990. The certificate is not required and candidate is deemed to have passed when his result is declared or when he obtains mark sheet. Shri Dubey submitted his mark-sheet on 7-1-1990 and the mark sheet is of a recognized university and shastri examination has been considered equivalent to B.A. by the Central and State Government and by the respondent bank itself so Shri Dubey ought to have been promoted straightaway on 7-1-1990 but the management has taken an absurd stand that he passed Varanasaya Sanskrit Vishwavidyalaya, Varanasi which is a fake university. Infact Shri Dubey has submitted certificates of Sampurnanand Sanskrit University, Varanasi and there is no merit in the argument of the management that he has submitted the mark sheet of a fake university and he was not promoted as a charge sheet was served on him. Both these grounds are not tenable in view of the cerficates produced and in view of chapter 20 of promotion policy, he should have been promoted on 7-1-1990 but the bank deliberately and with malafide intention did not consider his case for promotion. Shri Dubey deserves to be promoted atleast from 7-1-1990 whether there is vacancy or not as he is eligible for promotion from 1-10-1981 in view of his passing the examination. He deseves to get due increments and full back wages as if he has been promoted on 7-1-1990.

The reference is replied thus :—

The action of the Management of Central Bank of India, Delhi was not absolutely justified in not promoting Shri J.N. Dubey—Armed Guard from subordinate cadre to clerical cadre w.e.f. 1-10-1981 in accordance with the Promotion Policy dt. 20-12-1975. Shri Dubey deserves to be promoted straightaway and he shall be deemed to have been promoted to all intents and purposes from 7-1-1990 and he deserves to get due increments and due emoluments from 7-1-1990 within one month after publication of the award. In case of default he is entitled to get 10% interest per annum on the amount which became due every year.

The award is given accordingly.

DT. 15-07-2004. R. N. RAI, Presiding Officer

नई दिल्ली, 5 अगस्त, 2004

का.आ. 2203.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, न्यू मेंगलोर पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बैंगलोर के पंचाट (संदर्भ संख्या 15/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-8-2004 को प्राप्त हुआ था।

[सं. एल-45011/1/98-आई.आर. (एम)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 5th August, 2004

S.O. 2203.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/99) of the Central Government Industrial Tribunal-cum-Labour Court Bangalore as shown in the annexure, in the industiral Dispute between the employers in relation to the management of New Mangalore Port Trust and their workmen, which was received by the Central Government on 04-8-2004.

[No. L-45011/1/98-IR (M)]

C. GANGADHRAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

"SHRAM SADAN"

G.G. Palya, Tumkur Road,

Yeshwanthpur, Bangalore- 560022

Dated : 23rd July 2004

PRESENT : **SHRI A. R. SIDDIQUI,** Presiding Officer

C. R No. 15/99

I Party	II Party
The General Secretary, New Mangalore Port Staff Association, NMPT Admn. Office Building, Panambur, Mangalore.	The Chairman, New Mangalore Port Trust, Panambur, Mangalore.-575 010.

Appearances

I Party : D. R. V. Bhat, Advocate

II Party : B. L. Acharya, Advocate

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section

10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order. No. L-45011/1/98-IR (M) dated 08-02-1999 for adjudication on the following schedule:

SCHEDULE

1. "Whether the action of the management of New Mangalore Port Trust, Panambur in not stepping up the pay of Shri N.M. Bhandary, Head Draughtsman (C) to that of Shri D. Annu who is junior in this cadre is justified ? If not, to what reliet Shri N.M. Bhandary is entitled ?"

2. "Whether the action of the management of New Mangalore Port Trust, in not stepping up the pay of Shri K. Prabhakar Achar, in the cadre of Head Clerk to that of Shri K. Bhavanishankar Naik, who is junior in his cadre is justified ? If not, to what relief the said Shri Prabhakar Achar, Head Clerk, is entitled ?"

2. The case of the I party workman (herein after called) the Workman represented by General Secretary, New Manglore Port Staff Association, Mangalore as made out in the Claim Statement in brief is that; he joined the services of II party on 6-3-1969 as LDC and was promoted as UDC on 1-1-1972. He was once again promoted as Head Clerk on regular basis vide order dated 12-10-1982 and reported for duty on the very same day. Whereas, Shri Bhavani Shankar Naik, an employee of the Management joined its services on 28-3-1970 and was promoted as UDC on 1-1-1972; he was promoted as Head Clerk on regular basis vide order dated 12-10-1982 and reported to duty on 13-10-1982. Therefore, his name was found at Sl. No. 12 and whereas the name of the workman found place at Sl. No. 11 in the said promotion order which makes it clear that Bhavani Shankar is junior to the workman.

3. That the Second Party Management has prepared the seniority list of its workers in Class – III Ministerial employees of Port Trust as on 1-7-1991 published on 27-12-1993. As can be seen from the said list in the cadre of Head Clerk (Redesignated now as Assistant superintendent in the Grade of Rs. 1385:60: 1565:70:2545), the name of the first party workman finds place in Sl. No. 22 and that of Sri K. Bhavani Shankar Naik at Sl. No. 23. From this it is very clear that the said Sri K. Bhavani Shankar Naik is junior to that of the first party workman.

4. That even though Sri K. Bhavani Shankar Naik was far more junior to that of the first party workman, as per the seniority list, dated 27-12-1993, the said Sri Bhavani Shankar Naik was getting the pay at the rate applicable to the Head Clerk with effect from 11-2-1980 with next date of increment on 1-2-1981 whereas the first party workman was getting the promotion in the promoted cadre that is as Head Clerk with effect from September, 1980 with the next date of increment as 1-9-1981. From this it is very clear that the said Sri K. Bhavani Shankar Naik is drawing the increment 6 months ealier to that of the first party workman, even though the said Sri K. Bhavani Shankar Naik is junior to that of the first party workman, as per Seniority List prepared and published by the second party management dated 27-12-1993.

5. That the second party management vide their letter dated 26th September, 1989 of Ministry of Surface Transport, Labour Division, have issued some points for clarification regarding the stepping up of pay on par with that of the Juniors. The points are as follows :

(i) Both the junior and senior employee who belong to the same category and be so in the inter-se seniority list.

(ii) The pre-revised and revised scales of pay of the post in which they are entitled to draw pay should be identical.

(iii) In the pre-revised scale of post, the senior employee should have been drawing from time to time of the higher rate of pay than the junior employee and on fixation of pay in the revised scale, both the employees get fixed at the same stage of pay in the same scale. As can be seen from the seniority list, the first party workman is senior to that of Sri K. Bhavani Shankar Naik and he has fulfilled all the 3 conditions mentioned in the Order of the Second Party Management, dated 26th September, 1989 referred to above.

Even though there was a clear request by the first party workman, to step up his pay scale, on par with that of Sri K. Bhavani Shankar Naik, the second party management has intentionally refused the request of the first party workman and left with no other option, the first party workman has raised as Industrial Dispute on the file of the Assistant Regional Labour Commissioner, Bangalore (Central) and the conciliation proceedings ended in failure due to the adamant attitude shown by the Second Party Management and the dispute has been referred to this Hon'ble Court for industrial adjudication.

6. That there is no reason for the second party management to refuse the claim of the first party workman for stepping up of his pay with that of Sri K. Bhavani Shankar Naik. As can be seen from the Seniority list and also from the Order of Regulrisation in the cadre of Head Clerk, dated 12-10-1982 issued by the Second Party Management, it is crystal clear that the first party workman is senior to that of Sri K. Bhavani Shankar Naik and the second party management should have stepped up the pay of the first party workman on par with that of Sri K. Bhavani Shankar Naik, since the management has failed to carry out the reasonable request of the first party workman, the first party workman had no other option, but to approach this Hon'ble Court.

7. Therefore, he requested the court to answer the above said points of reference in his favour directing the management to step up his pay on par with that of Shri K. Bhavani Shankar Naik and to pay consequential benefits to him with retrospective effect from 1-2-1980.

8. The management by its Counter Statement admitted that the workman joined its services on 6-3-1969 as LDC and was promoted as UDC on 3-1-1973 and he was then promoted as Head Clerk w.e.f. 26-9-1980 on ad hoc basis vide order dated 26-9-1980 issued by the Secretary, New Mangalore Port Trust. His ad hoc promotion was regularized w.e.f. 12-10-1982. Therefore, since the I party was given ad hoc promotion w.e.f. 26-9-1980, he was paid annual increments of Rs. 24.00 in September, 1981 and September, 1982 raising his pay from Rs. 675.00 to Rs. 699.99 and Rs. 723.00 subsequently. The Management further admitted that said Bhavani Shankar joined the services as LDC on 28-3-1970 being promoted as UDC on 9-5-1975. It contended that though the I party was Senior to Shri Bhavani Shankar, Bhavani Shankar was promoted earlier as he was ST, the post of Head Clerk being reservation point for ST category. He was promoted on Ad hoc basis against the post reserved for ST w.e.f. 11-2-1980. Therefore, the date of ad hoc promotion was not required to be taken into account for fixing the Seniority and hence the name of the workman is shown against Sl. No. 11 and that of Bhavani Shankar at Sl. No. 12. Likewise, seniority list of Class III Ministerial Employees of the Port Trust published on 27-10-1993 shows the workman at Sl. No. 22 and whereas Bhavani Shankar at Sl. No. 23. But this Seniority is relevant only for the purpose of promotion purely based on Seniority; that the workman at para 7 of his Claim Statement himself admitted that Bhavani Shankar was getting his pay w.e.f. 11-2-1980 and his next increment was due on 1-2-1981. In the letter of the I party Union addressed a letter to ALC(C), Management also it was admitted that Bhavani Shankar was promoted as Head Clerk earlier to the workman and that Bhavani Shankar was getting a higher pay than the workman w.e.f. 11-2-1980 and whereas the workman was getting pay as Head Clerk w.e.f. 27-9-1980 which is the date of ad hoc promotion; that the letter dated 26-8-1989 of the Ministry of Surface Transport (MST) contained clarification on certain doubts raised by various Port Trust Boards regarding the implementation of settlement on wage revision and whereas all MST referred in the Claim Statement pertained to preponement of increment and in Stepping up of pay; that there are three conditions prescribed for preponement of date of increment of Seniors and the third condition is that Senior employees should have drawn from time to time higher pay than the Junior employee is the pre revised scale the pay of the junior employee is fixed at the same stage and in such cases the date of increment of the Senior employee can be preponed to the date of increment of junior employee. There is no provision for Stepping up of pay either in the relevant rules or in the wage revision settlement on the basis of seniority. The workman has not claimed preponement of date of increment and the above said letter of MST is not relevant to his case. At Para 10 of the Counter Statement, the managment contended that it is following Fundamental Rules and Supplementary Rules for fixing of pay on promotion. The provision for Stepping up of pay is dealt with in FR 22 (c) reading as under :

(i) Both junior and senior employees should belong to the same cadre and posts in which they have been promoted or appointed should be identical and in the same cadre.

(ii) The pay scales of the lower and higher post in which the junior and the senior officer are entitled to draw pay should be identical.

(iii) The anamoly should directly be as a result of application of FR 22 (c) e.g. if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of etc. the above provision will not be invoked to step up the pay of the senior officer.

9. Therefore the management requested the court to reject the reference.

10. During the course of trial management examined one witness as MW 1 and got marked 3 documents at Ex M1 to M3. His statement in examination in cheif is as under :

11. The workman got himself examined as WW 1 and 3 documents Ex W1 to W3 were marked. His examination in chief is as follows :

12. I would like to refer to their statements in cross-examination if found necessary and relevant.

13. Learned counsel for the respective parties have submitted their written arguments almost reiterating their respective pleadings in the claim and counter statements, of course, making reference to the documents produced by them and got marked in the evidence refered to supra. The facts undisputed in this case are that the workman joined the service of the management on 06-03-1969 as LDC and was promoted as UDC on 01-01-1972. He was given promotion as Head Clerk on ad hoc basis w.e.f. 26-09-1980 and his promotion was regularized as Head Clerk w.e.f. 12-10-1982 alongwith the regularization of promotion of workman. It is again not in dispute that as per the said promotion (Regularization Order), the name of the workman is shown against Sl. No. 11 and whereas the name of Bhavani Shankar at Sl. No. 12, likewise it is not in dispute that the seniority list of class III Ministerial Employees of the Management being on 27-07-1973 shows the name of the workman at Sl. No. 22 and that of Bhavani Shankar at Sl. No. 23.

14. Now the bone of the contention between the parties is therefore narrowed to a question as to whether the management was justified in not stepping up the pay

of workman in the Cadre of Head Clerk to that of said Bhavani Shankar who admittedly happened to be Junior in the said Cadre. The main contention as could appear from the counter statement filed by the Management that since he belonged to S.T. category, he was promoted on *ad hoc* basis as Head Clerk against the post reserved in the this cadre w.e.f. 11-02-1980 and where as workman belonging to general merit category was promoted on *ad hoc* basis on 26-09-1980 and therefore there is a difference of about 6 months in granting the increment to said Bhavani Shankar to that of the workman. It was contended that the Seniority as per the promotion order and the Seniority list as maintained by the workman showing the workman as senior to Bhavani Shankar is relevant only for the purpose of promotion and no for the purpose of pay scale. It was contended that as per FR 22(c) which is being dealt with for stepping up of pay. If the Junior Officer draws from time to time higher rate of pay, then the pay of Senior official will not get any benefit in pay.

15. Whereas, learned counsel for the I party vehemently contended in his written arguments that in the light of the admitted position on facts that the workman happened to be the senior as per the promotion order and as per the seniority list prepared by the management, the action of the management in refusing the request of the workman not bringing his pay on par with that of his junior is not only against the principle of natural justice but also discriminatory in nature. He contended that irrespective of the fact that Bhavani Shankar belonged to ST category and got ad hoc promotion earlier to that of the workman, Seniority in the cadre of Head Clerk remains undisturbed and therefore even applying FR 22(c), the workman is entitled to equal pay and increment from the date it is given to the said Bhavani Shankar and since at present the date of annual increment of workman is 6 months latter to the annual increment of Bhavani Shankar, this anamoly has to be set aside giving justice to the workman.

16. Learned counsel to his written arguments has also taken up the contention that the very promotion given to the said Bhavani Shankar was in violation of the provisions of constitution being discriminatory in nature causing injustice to the workman. In support of his earlier contentions, learned counsel relied upon the case reported in (1992) 19 Administrative Tribunals Case 569, Central Administrative Tribunal, Hyderabad; A.T.R. 1986 C.A.T. 161, Central Adminstrative Tribunal, Delhi and (1988) 7 Adminstrative Tribunals Cases 224; Central Administrative Tribunal, Calcutta. On the point raised by him that there was a discrimination caused in promoting Bhavani Shankar in preference to the I party though he happened to be his Senior, learned counsel quoted a decision reported in (2001) 2 Supreme Court Cases 666.

17. After having gone through the records and the principle laid down in the aforesaid said 3 rulings of Central Adminstrative Tribunals, I find substance in the arguments advanced for the I party with regard to his case in denying stepping up of his pay on par with that of Bhavani Shankar. In the first instance I would like to dispose of the contention raised by the I party with regard to the alleged discrimination made against him in promoting Bhavani Shankar as Head Clerk by ignoring his seniority. The question as to whether the management was justified or not in promoting Bhavani Shankar ignoring his seniority is not the point of reference before this tribunal and therefore I am not inclined to record any finding on this issue. In the result the principle laid down in the aforesaid decision of their lordship of Supreme Court, will not come into play.

18. Now coming to the point of reference first of all let me see as to how far the documents produced by the I party and the II party are relevant for the parties. The documents at Ex. W 1 is on an undisputed fact showing the name of workman at Sl. No. 22 and whereas of Bhavani Shankar at Sl. No. 23 so as to show that workman happens to be senior to Bhavani Shankar. The documents at Ex. W 2 is to show that Bhavani Shankar was promoted as Head Clerk on ad hoc basis by Order dated 12-02-1980 w.e.f. 11-02-1980 to 31-03-1980. which fact is not in dispute. Whereas documents at Ex. W 3 is promotion of Sh. K.M. Paul, who is examined before this court as MW 1. It is of not much relevance for the purpose. The documents at Ex. M1 is again with respect of the fact not disputed, which is a promotion order dated 12-10-1982 promoting the workman as well as Bhavani Shankar along with 14 other employees. The name of the workman is shown at Sl. No. 11 and that of Bhavani Shankar at Sl.No. 12. Document at Ex M2 is the order dated 12-10-1982 where in workman was promoted as Head Clerk along with others on *ad hoc* basis and this fact again is undisputed. Whereas the document at Ex M3 is the letter written by Ministry of Surface Transport, Labour Division to The Chairman of all the major Ports Trusts except Jawaharlal Nehru Port Trust and the Deputy Chairman of all Dock Labour Boards and Haldia Dock Complex seeking certain clarifications on the points raised there in.

19. Therefore, the documents produced At Ex. W 1 and W 3 will be at the most showing that I party happens to be the senior to Mr. Bhavani Shankar which fact is not disputed in this case.

20. Similarily, documents at Ex M1, M2 and M3 produced by the management are again on admitted facts having no bearing on the point of reference. The main contention of the management as seen above is that it has taken into account the provisions of FR 22(c) in stepping up pay of the employees working under it and as per one of the 3 conditions laid there in, the case of the I party workman does not fit in any as admittedly Bhavani Shankar junior to the workman was drawing higher rate of pay from time to time as compared to the pay drawn by the workman. Their next contention was that Bhavani Shankar was drawing higher pay than the workman as he was promoted

on *ad hoc* basis about 6 to 7 months earlier to the promotion of the workman on *ad hoc* basis as an Head Clerk. Therefore, the difference of 6 months coming in between the date of increment of Bhavani Shankar and that of the workman is a natural corollary. Whereas the contention of the workman is that in any case he happens to be senior to Mr. Bhavani Shankar as per the promotion order list and also as per the seniority list maintained by the management and, therefore, the pay of Mr. Bhavani Shankar cannnot be higher than his pay and thus the anamoly in pay to be rectified. His further contention was that increment paid by way of *ad hoc* promotion on the basis of local seniority leading to fixation of pay at a stage higher than the seniors pay shall be taken into consideration in fixing the pay of official senior, when junior promoted on *ad hoc* basis.

21. I find substance in the contention for the workman. Undisputedly, workman happens to be the senior to Mr. Bhavani Shankar as per the promotion order quoted above and as per seniority list prepared by the management. Contention of the management that this seniority list is relevant only for the purpose of promotion and not otherwise does not stand to any logic. The next contention of the management that it has to go by the provisions of FR 22(c), in case of stepping up of pay of the employees again holds no way if we go by the principle laid down in the aforesaid 3 decisions rendered by the Central Adminstrative Tribunals, Hyderabad, Calcutta and Delhi referred to supra.

22. It is not in dispute and cannot be disputed that when the I party and said Bhavani Shankar were working as U. D. C., their pay scale and the pay drawn by them was equal to each other. It is again not in dispute that Bhavani Shankar was promoted as Head Clerk on *ad hoc* basis about 6 to 7 months earlier to the promotion of I party as Head Clerk on *ad hoc* basis and, therefore, the increment in the case of Bhavani Shankar got fixed w.e.f. 1-2-1981 and the next date of increment as far as the I party was concerned was given effect to from 1-09-1981. Now, therefore, the question arises as to whether the management was justified in not fixing the date of increment in the case of I party w.e.f. 1-2-1981 which is as was done in the case of Bhavani Shankar. His lordship of Central Adminstrative Tribunal, Hyderabad in the case referred to supra in the similar circumstances at para 5 laid down the principle as under:

> "The fact that on promotion as UDCs juniors were placed at a higher stage in the scale of pay than the seniors is admitted. The reasons given is that the juniors had the benefits of *ad hoc* promotion which does not effect the seniority but gives them the benefit of higher pay fixation by virtue of increments earned by them due to the fortuitous *ad hoc* promotion. In a similar case to which I was a party V. Vivekananda v. Secretary, Ministry of Water Resources. O.A. No. 622 of 1989 while reviewing the case in R.P. No. 71 of 1990 there this Bench followed the decision of the Calcutta Bench of this Tribunal in Anil Chandra Das v. Union of India. In that case also the juniors were fixed in a higher point by virtue of the *ad hoc* promotions they enjoyed. This bench, following the Calcutta Bench judgment decided that not having had the bench of *ad hoc* promotions the senior should not be at a disadvantage in pay fixation and, therefore, directed the respondents to step up the pay of the applicant therein on par with his juniors. This matter was appealed against by the Government in the Hon'ble Supreme Court which, by its order dated 23-8-1991, in disposing of the SLP No. 13994 of 1991 upheld the decision of this Bench. Thus, the point of law now is in favour of the applicants herein. It is seen from the statement of page 5 of the application that 3 of the application Smt. N. Lalitha, Smt. Pankajam Muthukrishnan and Shri K. A. Narayanan Nair are not at a disadvantage in the matter of pay fixation since none of their juniors shown in the statement was given a higher stage. The other 7 applicants are, however, adversely affected and in my opinion entitled to higher pay fixation."

23. The head note in the said case is as follows :

> "Stepping up pay of senior on par with junior—Increments earned giving *ad hoc* promotion of the basis of local seniority leading to fixation pay junior at stage higher than the senior's pay. In such circumstances, the order, held, entitled to fixation of his pay with the pay of such junior."

24. Therefore, from the observations made above it gets clear that if a junior official gets any increment on the basis of *ad hoc* promotion and his pay is fixed accordingly, then, in that case the official senior to him will be entitled to fixation of his pay on par with the pay of his junior. In a similar such case dealing with the similar question, his lordship of Administrative Tribunal, Delhi in the case referred to supra held as under :

> "Benefit of "stepping up of pay" under—Pay of juniors in the same cadre and scale of pay stepped up from Rs. 150 to Rs. 155 w.e.f. 16-8-1962 on their promotion as U.D.Cs. while the benefits of such stepping up was denied to the applicant who was senior to them—Denial of such benefit to senior if patently discriminatory and cannot be sustained?—O.M. No. F. 2(10)-E. III/62, dated 6-3-1962."

25. In the said case of management infact that had relied upon F R 22, stepping up of pay of juniors in the same cadre and scale of pay stepped up from Rs. 150.00 to Rs. 155.00 and their promotion us UDC. The Senior official took up the matter and sat for stepping up of his pay on par with his juniors and the tribunal after having considered F R 22 and the contention of the management granted the request of the applicant in the said case.

26. Similarly in the case reported in (1988) 7 Administrative Tribunal Cases 224, Central Administrative Tribunal, Calcutta, a question similar to the question on hand came up for consideration and so also FR 22 was taken help of the management in opposing the case of the applicant seeking stepping up of his pay on par with his junior who was promoted on *ad hoc* basis earlier to his promotion. His lordship while dealing with the said case at para 4 ruled as under :

> "There is not dispute about the fact that the applicants are senior to Shri K P Mitra and Shri N G Chowdhury. Their seniority has been protected in the promoted post. The applicants were regularised in the promoted post with effect from 12-1-1976 whereas their juniors Shri Mitra and Shri Chowdhury were regularized in the promoted post with effect from 7-8-1976. But the ground taken for cancellation of the stepping up of the pay of the applicants is that the promotion of the juniors was on the basis of administrative convenience which amounted to accelerated promotion and, therefore, the applicants were not entitled to the stepping up of their pay. The respondents relay on an order dated 13-9-1974 as Annexure 'C' to the reply. It is seen from this order that the seniors will not be entitled to stepping up of pay if the anomally is caused because the juniors were already drawing higher pay in the lower post by virtue of fixation of pay under the normal rules or any advance increment or due to the accelerated promotion. There is no doubt that these conditions do not apply to this case. Juniors in the instant case were not drawing higher pay in the lower scale, nor were they given any accelerated promotion. It is admitted that they were given promotion earlier on *ad hoc* basis on account of occurrence of some vacancies which were filled up locally."

27. In the instant case again Bhavani Shankar who was junior to the I party was not drawing higher pay in the cadre of UDC and his pay was equal to the pay of I party while he was in the cadre of UDC. He started drawing higher pay only when he was promoted as Head Clerk on *ad hoc* basic when his next increment came to be fixed w.e.f. 1-2-1981. Therefore, condition number 3 in F R 22 certainly will not attract to the case of the I party but he will come in the category of conditions Number 1 and 2 of F R 22 relied upon by the management itself. He could have been denied the relief of stepping up of his pay taking help of number 3 of F R 22 only in case Bhavani Shankar was drawing higher pay in the lower post by virtue of fixation of pay under the equal normal rules or any advance increment or due to the accelerated promotion and not otherwise. Therefore, when Bhavani Shankar was not drawing the pay higher than the pay of I party, the I part can get the benefit of increment w.e.f. 1-2-1981 itself, which benefits was made available to Bhavani Shankar on the basis of *ad hoc* promotion.

28. The principle laid down in the aforesaid decisions cited on behaf of the I party apply to the present case on all its fours.

29. It is not the case of the management that the orders in the aforesaid cases have come to be over ruled by any higher forum, therefore, when we apply the principles to the present case there can be no hesitation in coming to the conclusion that the I party is entitled to the releif sought for.

30. Now the next question to be considered would be as to from which date the I party should be given this benefit of stepping up of his pay.

31. There is no cogent proof before this tribunal as to when actually the I party took up his case of stepping up of his pay with the management.

32. From the averments made at para 7 of the counter statement and the letter Ex. M1 written by I party Union, however, it can be made out that this matter of stepping up was racked up by the I party Union by its letter in the month of February 1998. Therefore, it would appear that the grievance of the I party was put forth by the Union before the Management in the month of February 1998 and the present reference ultimately came up in the month of February 1999. However keeping in view the fact that benefit of increment ought to have been extended to the I party from the date of increment w.e.f. 01-02-1981 which was fixed in the case of said Bhavani Shankar to which has on this day more than 22 years lapsed and so also keeping in view of the fact that Seniority list was prepared by the Management on 01-07-1991 in respect of the I party as well as Mr. Bhavani Shankar and others was published on 27-12-1993, it appears to me that ends of justice will be met if a balance is struck between the two parties one who gets the benefits and the other who is called upon to meet those benefits. In the result, the date of publication of the seniority list shall be the date proper in granting benefits of enhanced pay to the workman and hence accordingly, the reference is answered and following award is passed.

ORDER

The management is directed to step up the pay of the I party on par with Shri K. Bhavani Shankar Naik w.e.f. 01-01-1994 and onwards with all consequential benefits.

(Dictated to the LDC transcribed by him, corrected and signed by me on 23rd July, 2004)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 6 अगस्त, 2004

का. आ. 2204.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 63/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-8-2004 को प्राप्त हुआ था।

[सं. एल-12012/54/2000-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 6th August, 2004

S.O. 2204.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 163/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 4-8-2004.

[No. L-12012/54/2000-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT :

Shrikant Shukla Presiding Officer

I.D. No. 163/2001

Ref. No. L-12012/54/2000-IR (B-II)

Dated : 28-9-2001

BETWEEN :

Laxmi Shankar S/o S.P. Dubey
Vill. Bhakhra PO. Bhagwanpur, Gorakhpur (U.P.)

AND

Dy. General Manager, Central Bank of India
Regional Office, Vidhan Sabha Marg,
Lucknow (U.P.) 226010

AWARD

The Government of India, Ministry of Labour vide their Order No. L-12012/54/2000-IR (B-II) dated 28-9-2001 has referred the following issue for adjudication to this Tribunal.

> "Whether it is a fact that Shri Laxmi Shankar was engaged as a temporary Peon/Water Boy by the management of Central Bank of India during the period from 21-3-1998 to 5-7-1999 ? If so, whether the action of the management to terminate him from service w.e.f. 6-7-1999 is legal and justified ? If not justified, what relief is the disputant concerned entitled to ?"

The Workman, Shri Laxmi Shankar has filed the statement of claim alleging therein that he was in search of employment approached the manager of Urdu Bazar Branch, Gorakhpur of the Bank where the manager was pleased to appoint him as temporary peon w.e.f. 21-3-98, as there was no peon in the said branch of the Bank. He has further alleged that he was appointed as temporary peon in a clear vacancy. He has stated that he was required to work as a peon for the full hours of work i.e. from 9.30 AM to 5 PM and ever beyond 5 PM. He performed all duties, which devolve on a peon in the Bank. Though the workman was required to work as a peon for the full hours of work, he was not paid the prescribed salary of a peon in the Bank. Instead he was paid @ 25/- per day which was raised to Rs. 30/- per day excluding Sundays and holidays except when the workman was called to work on Sundays and holidays. The management of Bank by taking full days work of a peon, not paying the prescribed salary of a peon and making payments @ 25/-, 30/- per day thereby showing the workman as daily wage earner, the Bank indulged in unfair labour practice as defined under Section 2(ra) and detailed in the Vth Schedule of the Industrial Disputes Act, 1947. The workman has further stated that he continued to work as temporary peon from 21-3-1998 until 15-7-1999 when his services were abruptly terminated by the Bank and while terminating the services of the workman the Bank did not advise the workman, the reason for terminating this services. The Bank management has also not paid the workman notice pay and retrenchment compensation. As such, the Bank has committed breach of Section 25-F of the Industrial Disputes Act, 1947. In the view of the facts stated above the workman has alleged that the action of the Bank in terminating his services is illegal and unjustified and he is entitled to reinstatement with full back wages.

The opposite party i.e. Central Bank of India has filed written statement denying the allegations that the workman was engaged as a temporary peon/water boy by the Bank management during the period from 21-3-1998 to 5-7-1999. Further it is stated in the written statement that the workman, Laxmi Shankar was not appointed as temporary peon w.e.f. 21-3-1998 in the Bank services. It has also been denied that there was no peon in the Bank and the management has submitted that Daftari and Cash Peon are initially a peon by nature and the workman was never appointed as temporary peon. It has also been submitted by Bank that the Bank has taken the services of workman on casual basis only for fetching the water from outside and to fill it in the pots kept in the branch which takes only half an hour in total a day. The services of the workman were taken by the Bank when there was a shortage of water in the branch premises and the services of the workman were not taken by the bank other than the purposes stated as above. The workman used to finish his work within half an hour on the day on which his services for the purpose was being taken by the Bank and for this

purpose the Bank has adequately compensated the workman. It has submitted by the Bank that as and when the situation improved the Bank thought not get the pot filled by the casual worker from outside. As such, the management stopped fetching water from the workman and there is no question of termination of services of the workman as he was not permanent employee of the Bank. In reply to the workman's claim that he did worked for more than 240 days in a calendar year preceding the date of termination, the management has replied that the workman never worked for 240 days in the Bank and the workman is put to strict proof. In the para 13 of the statement of claim it has been alleged that the workman was never engaged or appointed in the Bank services. This factum has been simply denied by the management in reply. Ultimately, in para 13 of the written statement the management has alleged that as the workman was never engaged or appointed in Bank service, the question of any of the Bank settlement and also provision of Industrial Disputes Act, does not arise and the workman is not entitled for any relief claimed in the statement of claim and the reference deserves to be answered in negative and in Bank's favour.

The workman has filed the rejoinder and has reiterated the allegations of the statement of claim.

The workman has filed payment vouchers paper No. 4/2 to 4/285, along with affidavit paper No. 5.

The management has not filed any document.

The workman has been cross-examined by the representative of the Bank's management. The Bank's management has examined its Sr. Manager, Shri S. K. Srivastava. No other evidence has been filed by the parties.

Heard learned representatives of the parties & perused evidence on record.

It is true the workman was not appointed by any appointment letter of the Bank. No termination letter has either filed by the parties. From the evidence it transpires that the workman was not regularly recruited or regularly appointed. It is also admitted fact that the workman was paid on daily wage basis.

The management has not mentioned the duration of the engagement of the workman, whereas the workman has specifically alleged that he had worked continuously from 21-3-98 until 5-7-99. The workman, Laxmi Shankar has by affidavit to prove that he continuously worked from 21-3-98 until 5-7-99 and thus he worked for more than 240 days in a calendar year preceding the date of his termination from service i.e. 5-7-99. He has also stated in affidavit that at time of termination of services by the Bank, the Bank neither paid notice pay nor retrenchment compensation.

The management has admitted that the services of the workman were taken on casual basis on daily wages. The only plea taken by the management is that the workman was engaged for fetching the water from outside and to fill it in the pots kept in the branch which takes only an hour in a total day. It is further alleged in written statement that the services of the workman were taken when there was a shortage of water in the branch premises. The Bank has also denied that workman's services were taken by the Bank for any other purpose. In para 10 of the written statement the management has stated that the workman has never worked for more than 240 days in the Bank and the workman is put to strict proof. Shri S.K. Srivastava, Sr. Manager of the Bank has stated in para 6 of the examination-in-chief that during March, 98 to 5-7-99 Laxmi Shankar has been paid for 201 days for fetching water and bringing tea etc. It has also been admitted that the workman was first engaged for casual basis on 21-3-98. The payment of which was made on 23-3-98. Shri Srivastava stated that all the vouchers filed by the workman which are paper No. 4/2 to 4/285 are admitted to him.

It is to be ascertained as to whether Shri S.K. Srivastava's statement is true when he has stated that during entire period for March, 98 to 5-7-99 the workman was paid for 201 days. I, myself perused all vouchers, paper No. 4/40 to 4/270 and I have found that during this period the workman has been paid for 233 days. The workman has also been paid Rs. 30 for providing water on 28-6-98. Thus, during period 4-7-98 to 29-6-99 the workman has been paid for 234 days. Therefore, the statement of Shri S.K. Srivastava is false. I have not scrutinized the vouchers, paper No. 4/2 to 4/39 since they are related to payment to daily wages from 21-3-98 to 2-7-98.

The learned representative of the workman has argued that whatever documents could be made available to workman, he has filed and remaining could not be made available to him by the Bank. But this fact is not disputed that the workman was engaged from 21-3-98 to 5-7-99. Thus, first part of the issue (referred) stands proved party.

Section 25-F the Industrial Disputes Act, 1947 states as follows:

25 F. Conditions precedent to retrenchment of workmen

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month's noticed in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice wages for the period of the notice;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay [for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate government [for such authority as may be specified by the appropriate government by notification in the Official Gazette].

Section 25 B (2) of the Industrial Disputes Act. 1947 defines the continuous service, which is as under:

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service for an employer—

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) Two hundred and forty days, in any other case;

(b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) ninety-five days, in the case of a workman employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case.

Explanation : For the purpose of clause (2), the number of days on which workman has actually worked under an employer shall include the days on which—

(i) he has been laid-off under an agreement or as permitted by standing orders made under the Industrial employment (Standing orders) Act. 1947 (20 of 1946) or under the Act or under any other law applicable to the industrial establishment;

(ii) he has been on leave with full wages, earned in the previous years;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.

Section 2(oo) of the Industrial Disputes Act, 1947 defines 'retrenchment' which means the termination by the employer of the service of a workman for any reason what soever, otherwise than as a punishment inflicted by way of disciplinary action.

In the present case it is not termination by punishment.

In the present case it has not to be looked into whether the workman was temporarily employed, permanently employed or casually employed. Only this much has to be seen as to whether prior to from the date of his disengagement he has put in 240 days of service in 12 calendar months. Admittedly, no notice, pay in lieu of notice or no retrenchment compensation has been paid to worker prior to his disengagement. If it is found that the workman actually put in 240 days of service in a calendar year of his preceding of his disengagement, he is deemed to be in continuous service.

The representative of the workman has filed 1985 Lab IC 1733 (Supreme Court) H. D. Singh v. Reserve Bank of India and others. The said case pertains to Tikka Mazdoor in the Reserve Bank, person who helps the examiners of Coins/notes who claimed to have been put in service of more than 240 days in the preceding 12 months was stuck off from the rolls after his passing matriculation examination. The present case is distinguishable from the above, worker has in the statement of claim has alleged that he was appointed at temporary peon, but in the cross examination he says that he was appointed as 'Daftary' by the Branch Manager. The management has argued that he (worker) never worked either as peon or daftari. It is also argued that the Branch Manager has no authority to appoint a peon or daftari. In the exigencies of the work the Branch Manager is authorised to engaged labour to meet the urgent needs. Sh. S. K. Srivastava, Senior Manager of the bank has stated on oath that Branch Manager is not authorised to recruit any one. He has also stated that Laxmi Shankar was engaged to bring the water from out side and store in pots. This required only one hour job and he is to do it. For this petty work, the worker was adequately paid. It is noteworthy that there exists a post of Daftary and cash peon and part time safai karmchary. They are the sub staff, discharging the duties of peon. It is alleged by the workman that there was no peon and as such he was appointed. The allegations are not true. All vouchers through which the worker was paid have been filed and these are admitted to the Sr. Manager of the Bank. There is no document leftover, as the Branch Manager in his statement has stated that there is no other voucher in the bank other than those filed by the worker. Vouchers, which have been filed, clearly show that the worker was engaged for making available the drinking water. However, there are only a few vouchers which refer to miscellaneous payment. Over all documents go to corroborate the management's case. It cannot be said that the worker was

engaged for the whole of the day. Naturally there could no attendance register for such usual engagement. The Branch Manager was right in engaging casual labour as long as suitable arrangement of water availability is not ensured. I therefore come to the conclusion that the worker was not appointed as peon or daftary. It is strongly argued that the claimant's services were taken by Bank when there was shortage of water. It is not stated in the affidavit of the worker that any other casual labour has been engaged in his place. The statement of the worker in affidavit cannot be relieved that he was appointed as a peon or he worked from 9.30AM to 5 PM. It also cannot be said that the Bank Branch Manager at all resorted to unfair labour practice. It is noteworthy that all the photostat copies of vouchers have been made available to the worker by the Bank Management to prove his case. It is unfair on the part of the worker to say that he was working as peon/daftary as it does not find support from photostat copies of the vouchers filed by him. Fetching the drinking water for the consumption of customers and staff members and storing in the pots need hardly half an hour and for that purpose adequate sum has been paid. Worker's representation has failed to prove that Branch Manager is the appointing authority for peon. There are prescribed procedures for appointment of sub-staff. Only prescribed authority can appoint a sub staff (peon). By way of claim the worker is trying to get back door entry in the services of the Bank, where huge numbers of youth are staying in the que for obtaining employment. The case law cited by the workman's representative is of no help to him.

I come to the conclusion that the case of the disengagement of the worker does not come in the ambit of the retrenchment. The disengagement of the worker on 6-7-99 cannot be termed as illegal or unjustified with the result I also come to the conclusion that the worker is not entitled to any relief. The second part of the issue is accordingly answered in favour of the management.

Lucknow

29-7-2004 SHRIKANT SHUKLA, Presiding officer

नई दिल्ली, 6 अगस्त, 2004

का. आ. 2205.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या-33/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-8-2004 को प्राप्त हुआ था।

[सं. एल-12011/36/2001-आई. आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 6th August, 2004

S.O. 2205.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2001) of the Central Government Industrial Tribunal-cum-Labour Court Hyderabad as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 4-8-2004.

[No. L-12011/36/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri E. Ismail, B.Sc., LL.B. Presiding Officer

Dated the 12th day of January, 2004

Industrial Dispute No. 33/2001

BETWEEN:

1. The General Secretary,
Union Bank Employees Union,
Room No. 3, 1st floor, Unity House,
Abids, Hyderabad—500 001.

2. Sri G. Srinivas,
C/o Sri Sushil Kumar Jaiswal,
Advocate, D. No. 3-5-1082/1,
Narayanguda, Hyderabad. ...Petitioner

AND

The Dy. General Manager,
Union Bank of India,
Regional Office, Lata Complex,
Nampally, Hyderabad—500 001. ...Respondent

APPEARANCES:

For the Petitioner : Sri Susheel Kumar Jaiswal, Advocate

For the Respondent : M/s. C. R. Sridharan, G. Narender Reddy & S. Ramesh, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-12011/36/2001/IR(B.II) dated 8/13-6-2001 referred the following dispute under Section 10(1) (d) of the I.D. Act, 1947 for adjudication to this Tribunal between the employers in relation to the Management of Union Bank of India and their workman.

SCHEDULE

"Whether the action of the management of the Union Bank of India in terminating the services of Sri G. Srinivas, Ex. Sub-Staff is justified ? If not, what relief the ex-workman is entitled for ?"

This reference was registered as Industrial Dispute No. 33/2001 and notices were issued to the parties.

2. The claim statement was filed with the following averments. It is mentioned that the Petitioner worked from 1-7-95 at the High Court branch, Hyderabad till 12-10-96 and he was dismissed without notice. That they have not followed Sec. 25F and cuased irreparable loss. That he worked for 373 days from 1-7-95 to 12-10-96. He was in continuous service. He was paid wages through petty cash vouchers in different names like G. Raju, Tulasi, G. Baba, Narsimha etc., but he signed all the vouchers as 'G. Srinivas' and received the amounts, which is sufficient to prove that he worked for more than 240 days. It is prayed that the Respondent may be directed to produce the originals of the petty cash vouchers for the period from 1-7-95 to 12-10-96.

3. A counter was filed. That the reference itself is not valid in law. That the reference is hopelessly barred by limitation. That there was no employee by name of G. Srinivas employed by the Respondent bank at any point of time. Hence, the question of terminating him does not arise. That the claim statement filed is hand work of menipulation, fraud and interpolation on the part of the Petitioner or otherwise. That it is shocking that an industrial dispute has been raised for a non-existing person. That at no point of time they engaged any man by name G. Srinivas. In order to meet certain contingencies such as non-availability of permanent staff on certain days, it is an established practice with the bank to deploy certain casual workers to attend to such work to meet such contingencies and therefore had deployed the following casual employees in the following manner :

Name	No. of days
G. Raju	61
Krishna	47
Tulasi	36
G. Baba	31
Narsimha	26
Hari	25
Ravi	23
G. Raja	23
Kumar	21
Venkat	10
Gopal	8
Narsing	8
Anjaiah	4

That a voucher would be drawn and the wages for the day would be paid duly acknowledged by the Respondent employees. That the said bundles have been removed and copies have been made illegally after interpolating some additional signatures, which have come to light at the time of drafting of this counter statement. Some vouchers contain the thumb impression upon which also such signatures figure, establishing that they are all fake. Hence, as he was never employed he is not entitled for any relief.

4. The Petitioner examined himself as WW1 and deposed that he has worked in the High Court branch from 1-7-95 to 12-10-96. He worked as attender. That he used to take the daily wages by signing the petty cash vouchers. Ex. W1 are the Xerox copy of the petty cash vouchers. Ex. W2 is the Xerox copy of the ration card showing that he is a pink card holder and he is Srinivas. No notice was given to him. No pay was given in lieu of notice. He was asked not to come from 12-10-96. He prays that he may be reinstated with back wages.

5. In the cross examination he deposed that he has not filed any appointment order. He does not remember who has allowed him to work in the bank. One Mr. Narasimhachary asked him not to come to the bank. That he is 7th fail. He does not know English language. In the receiver's signature, there are signatures of different persons but not his signature. On none of the vouchers his name was written. The original of Ex W1 was not with him. They are with the bank. One Mr. Narasimhachary has permitted him to take the Xerox copies of Ex. W1 who is custodian of the records. He would not examine him. He denied that he has not worked even for a day and he is deposing falsely.

6. WW2 deposed that he has worked as cashier cum clerk in the Respondent bank from 1996 in RP Road branch, Secunderabad. WW1 was also working in High Court branch as sub-staff. He was being paid from petty cash. That he used to write petty cash vouchers. Most of the petty cash vouchers are written by him. Voucher dated 20-7-95 bears the signature of WW1. Ex.W1 almost all the vouchers have the sign of WW1 on the reverse of the vouchers. The procedure of payment of petty cash is after he or somebody fills up the petty cash voucher will go to the officer concerned who will approve the payment as in Ex. W2 and it will go to cashier to take the sign of the person drawing the cash and make payment after taking the signature on the reverse. WW1 also worked from July, 1995 to June, 1996. He was also relieved and joined at RP Road branch, Secunderabad. In the cross exmination which was done after a gap of 7 months he now deposed that he is not concerned to whom it is paid. He cannot identify the signature of WW1. None of the vouchers show that the payment is made to WW1 as per bunch of Ex. W1 exhibits. In the re-examination he deposed that the person received the payment will sign on the reverse. In Ex. W1 the entire bunch the signature on the reverse purports to be of G. Srinivas but he never signed before him.

7. The Respondent examined Sri B. Uma Maheshwara Rao, Assistant Manager in the Respondent bank as MW1. He deposed that he knows the employees who worked in the branch at that time. Sri G. Srinivas never worked in the High Court branch of the Respondent. Now and then branch used to engage casual labour for

sweeping, cleaning etc. Ex. W1 whoever receive the payment on the petty cash memo their name would be mentioned. Names mentioned in Ex.W1 are Sri Raju, Tulasi, Babu, Krishna, Narasimha and Hari etc. None of the vouchers bears the name of the Petitioner. The Petitioner is not an employee of the bank. He never worked in the bank. He is not aware whether the DGM has written a letter to Assistant Labour Commissioner(C) in response to the representation of the petition on 28-4-98 that the Petitioner worked as a casual labour in 1995 and 1996. Ex. W3 and W4 are Xerox copies of the vouchers bearing the name of the Petitioner.

8. It is argued by the Learned Counsel for the Petitioner that the very counter would show and it is unbelieving that 13 persons would have worked during the brief period from 1-7-95 to 12-10-96. It is admitted by the Respondent witness that Ex.W3 and W4 bear the signature of the Petitioner which are for 1996. Now saying that he never worked with them is purely false. In fact in order to deprive the Petitioner the benefits which may arise to him right in High Court branch they have played fraud by preparing names on the various books, persons, which is very clear from the number of persons said to have been appointed during this brief period intermittently. Hence, the petitioner may be reinstated with all back wages.

9. The Respondent counsel argues that itself is shocking that the Petitioner has laid his hands on the vouchers and manipulated it by putting his signatures on the receiver's column. Hence, he is not entitled for anything. Hence, the petition may be dismissed.

10. It may be seen that neither the Petitioner has come with clean hands nor Respondent has come with clean hands. Complete denial of the Respondent that the Petitioner has ever worked in the bank and that there is no such person as G. Srinivas itself is false which is obvious from the deposition of the MW1. MW1 has categorically admitted that Ex. W3 and W4 are the Xerox copies of the vouchers, bearing signatures of G. Srinivas. No doubt WW2 cashier from the bank stated first in favour of the Petitioner and then turned practically hostile in the cross examination and again in re-examination he admitted that the entire bunch of Ex.W1 contains the signature of G. Srinivas but he never signed before him. So it may be seen that the denial that the Petitioner has never worked with them is wrong. The Petitioner has worked with them. Whether he has worked with them for 240 days or not, here he has filed vouchers from 1-7-95 to 12-10-96 that he worked for 373 days. So it may be seen that one thing is very clear that the Petitioner has worked with the Respondent and it is also does not appeal to common sense that more than half a dozen persons should have been employed in the said period. Hence, I hold that it is not a bogus case but a case where the Petitioner has worked apparently for more than 240 days and he was entitled for notice under Sec. 25F. But, as much water has flown and there is lot of ill feelings, it will not be desirable to ask the Respondent to engaged him as casual labour and they can dismiss him by following Sec. 25F. It is clear that he received Rs. 40/- as per Ex. W3 and W4. So the ends of justice would be met if he is paid for 100 days that is Rs. 4000/- and Rs. 1000/- towards cost of this litigation. The same would not have been awarded but for out right denial by the bank that no such person exists as G. Srinivas. An individual can make not as a right but by foolishness or otherwise wrong statements. But the bank should be more cautious in making a statement in the counter when they have got the originals that too according to MW1, no doubt has stated sweeper. The Petitioner has not been able to establish categorically his engagement through out for 373 days yet, the circumstances that, WW2 an employee of the bank himself in the same branch supported the case of the Petitioner, no doubt, turned almost hostile in cross examination, but in re-examination again submitted that on the reverse the Petitioner has signed. Therefore it may be safely taken that he has worked for more than 240 days and he is granted the above relief, accordingly, the reference is ordered as follows : The action of the Management of the Union Bank of India in terminating the services of Sri G. Srinivas, Ex. Sub-staff is not justified. However, the Petitioner is entitled for Rs. 5000/- within 30 days from the publication of this Award failing which he will be entitled to the same with 12% simple interest per annum after 30 days from the publication of this Award.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 12th day of January, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent :
WW1 : Sri G. Srinivas	MW1 : Sri B. Uma Maheshwara Rao
WW2 : Sri H. L. Prakash Rao	

Documents marked for the Petitioner

Ex.W1 :	Xerox copies of petty cash vouchers.
Ex.W2 :	Copy of ration card of WW1

Documents marked for the Respondent

NIL

नई दिल्ली, 6 अगस्त, 2004

का. आ. 2206.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम

न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या-256/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-8-2004 को प्राप्त हुआ था।

[सं. एल-12011/52/2002-आई आर (बी-II)]

सी० गंगाधरण, अवर सचिव

New Delhi, the 6th August, 2004

S.O. 2206.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 256/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 4-8-2004.

[No. L-12011/52/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri E. Ismail, B.Sc., LL.B.

Presiding Officer

Dated the 22nd dayof March, 2004

Industrial Dispute No. 256/2002

Between :

The General Secretary,
Syndicate Bank Staff Association,
Anand Plaza, II floor,
Near Anand Rao Circle,
Bangalore-560 009. ....Petitioner

AND

The Dy. General Manager,
Syndicate Bank, Zonal Officer,
Somajiguda,
Hyderabad-500 082. ...Respondent

APPEARANCES :

For the Petitioner : M/s. A. K. Jayaprakash Rao, K. Srinivas Rao, P. Sudha, T. Bal Reddy, M. Govind, N. Sanjay & K. Ajay Kumar, Advocates

For the Respondent : M/s. A. Krishnam Raju, G. Dinesh Kumar, G.V.N. Babu, N. Premananda Rao & T.P. Das, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-12011/52/2002-IR(B.II) dated 18-6-2002 referred the following dispute under section 10(1) (d) of the I.D. Act, 1947 for adjudication this Tribunal between the employers in relation to the Management of Syndicate Bank and their workman.

SCHEDULE

"Whether the action of the management of Syndicate Bank, Hyderabad in dismissing the services of Sri M. V. Raja Rao, Clerk, Chaitanyapuri, Hyderabad is legal and justified ? If not, what relief the workman is entitled to ?"

This reference was registered as Industrial Dispute No. 256/2002 and notices were issued to the parties.

2. The brief averments as mentioned in the claim statement are : that the Petitioner joined on 20-9-76 as a clerk cum typist and put in a clean record of service. He was illegally dismissed on 30-1-2001. That while the Petitioner was working as clerk cum typist on 27-6-2000. On 28-7-2000, M/s. Sri Laxmi Tyres Agency, Customer, has deposited a sum of Rs. 90,100/- to the current Account No. 860, but by mistake in the cash slip prepared by M/s. Sri Laxmi Tyres Agency, it was mentioned Rs. 83,100/-. It is further alleged that there was excess cash of Rs. 7,000/-. That the Petitioner denied the said allegation. However, the Senior Branch Manager forced the Petitioner to refund the amount sent to kept cordial relation between the bank and the customers. The petitioner submits that in order to keep the respect of the bank he was force to refund the amount even though he received only Rs. 83,100/-. Further he was transferred from the regional office (Rural) to Chaitanyapuri branch on 24-6-2000 and normally the practice was to credit the salary of the employees in the respective accounts on the last but one day of the month. When he was transferred and joined the duty at Chaitanyapuri branch on 27-6-2000, he has discounted the cheques towards his salary on 8-7-2000 for which the Respondent bank is solely responsible for non-crediting the salary in his account. Therefore, the Petitioner was allowed to sustain with his family members, has drawn the amount payable by the Respondent bank.

3. The delinquent employee stood as a surety to the co-employee by name Mr. G. Balaiah, together with Sri Ratnam Raju, clerk and Smt. Shashikala. That the Hon'ble court ordered attachment of salary to all the three. Curiously the bank has taken action against him.

4. Further, in the enquiry one Senior Branch Manager was examined as Management witness Sri M.B. Rajanarasimham, Enquiry Officer, Sri C. Subramanyam both are of the same rank. The Enquiry Officer should be higher in the rank than the witness. There fore the entire proceedings are violative of the principles of natural justice. That he has also represented to the bank that he is experienced in cash duties as he was working in administration since 20 years and therefore, he may be exempted from performing the cash duties. That the delinquent employee had submitted an application for voluntary retire-ment on 10-9-98 and again on 24-8-2000 but the same was rejected. Hence, he may be taken back into service.

5. A counter was filed. It is a matter of record that the Petitioner has joined the services of the bank on 20-9-76 as a clerk. That he was issued with a charge sheet with three

charges. He did not account for excess of Rs. 7000/- while working as a cashier. He discounted a cheque without maintaining sufficient balance which resulted in the dishonour of the cheque. He stood as a guaranteer to loan and as his salary was attached he had tarnished the image of the bank in the eyes of the public. That the enquiry is validly conducted. That Management witness was cross examined by the defence representative which is a matter of record. That the party has correctly mentioned the notes. Only in the calculation they have committed a mistake, that whether the denominations are correctly noted and it has been checked by the Petitioner. That Rs. 7000/- excess amount should have been found with him on 28-7-2000 but it was not there. That when he was asked on 28-7-2000 he reimbursed the amount on 1-8-2000 when he was confronted with the documents. Hence, the claim may be dismissed.

6. Arguments were heard on the validity of domestic enquiry and this Court by it's detailed order on 9-6-2003 held that the domestic enquiry is validly conducted. Hence, arguments were advanced on the quantum of punishment under Sec. 11A.

7. It is argued by the Learned Counsel for the Petitioner that merely by wrong mentioning of the denomination by the customer does not mean that he has received the entire Rs. 90,100/- when the total he is mentioning as Rs. 83,100/- he received only Rs. 83,100/- only but much weight was given by the bank to the customer. He submits that what is there except the word of the customer. Secondly the other two allegations even if alleged to be proved are not so serious as to warrant dismissal. I fully agree with him that the other two charges of standing as a surety and discounting a cheque are not such a serious offence as to warrant dismissal. Hence, I do not want to refer the entire arguments of the Learned Counsel on the other two aspects. The only aspect which appears to be grave is whether he has received Rs. 90,100 and credited only Rs. 83,100/-. If so, whether any lenience is required.

8. The Learned Counsel for the Petitioner further argued that in the enquiry the equivalent officer to that of Enquiry Officer is examined as a witness which is not correct. As per the Judgement of the Hon'ble High Court of A.P. reported in 1990 (II) LLJ page 23 in M.L.L. Kumar Vs. The Divisional Manager, A.P.S.R.T.C., Cuddapah and another, that to avoid bias, superior officer must be appointed as Enquiry Officer as Management witness. That the delinquent officer forced to pay Rs. 7000/- on 31-7-2000 and the said amount was received without any demur and the charge sheet was issued on 18-9-2000 for the amount so received. That during the cross examination of MW1 a question was put to MW1, it was brough to light that the representative of M/s. Laxmi Tyres Agencies was preparing cash slips and used to commit mistakes in denominations very often but MW1 gave elusive reply but he is not responsible for handling cash vouchers but did not deny the question put by the delinquent employee. That Ex. M2 was confronted that there was alteration of denomination of Rs. 50/- prepared by M/s. Laxmi Tyres Agency and MW1 has admitted the same. That his evidence is not challenged. The Judgement on which he relied states that when the person who have the complaint and the person who gave the complaint against him is the officer immediately superior to him, the enquiry should not have been conducted by the Enquiry Officer who was sub ordinate to the complainant himself, and particularly when the superior officer is also a witness in the case. Further he relied on 2000 Supreme Court cases (L&S) page 830 by a Full Bench of the Hon'ble Supreme Court of India, wherein it was held that, "where a bank employee was dismissed from service on account of his admitted misconduct of withdrawal of money unauthorisedly from customer's account-Industrial Tribunal ordered reinstatement. The award of the Tribunal was modified by inserting as additional condition, that the employee would not get any increment for ten years with cumulative effect". He therefore prays that he may be reinstated.

9. It is argued by the Learned Counsel for the Respondent that here the witness and the Enquiry Officer are of the same rank and the Enquiry Officer is not sub-ordinate to the Petitioner. Therefore, no bias is caused to the Petitioner in the enquiry.

10. It may be seen that in view of the Supreme Court Judgement cited above where he was reinstated into service and increments for 10 years with cumulative effect, as this is a question of Rs. 7000/- and there is some doubt atleast one percent that the party may also be responsible and as he has put in service from 20-9-76 and was dismissed on 30-1-2001, that means he has put in 24 years 3 months service. I think seeing the circumstances of the case the ends of justice will be met if the bank is directed while confirming the orders of dismissal the bank is directed to pay 12 months gross wages last drawn by him to be multiplied by the salary for the month of December, 2000. Hence, the reference is ordered as follows : The action of the Management of Syndicate Bank, Hyderabad in dismissing the services of Shri M.V. Raja Rao, Clerk, Chaitanyapuri, Hyderabad is directed to be paid 12 months wages multiplied by his last drawn salary in December, 2000 as he has worked for 24 and odd years within 30 days from the publication of this award failing which he will be entitled to simple enterest at 6 % p.a. until he receive the amount.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 22nd day of March, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner :	Witnesses examined for the Respondent :
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 6 अगस्त, 2004

का. आ. 2207.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना के पंचाट (संदर्भ संख्या 50/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-8-2004 को प्राप्त हुआ था।

[सं० एल-12011/194/2001-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 6th August, 2004

S.O. 2207.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/2003) of the Industrial Tribunal, Patna as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 4-8-2004.

[No. L-12011/194/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference No. 50 of 2003

Management of UCO Bank, Regional Office, Mouryalock Complex, A Block, Patna and their workman represented by the State Secretary, UCO Bank Employees Association. C/o. UCO Bank, Exhibition Road, Patna.

For the Management	:	Mr. P.K. Chatterji, A.C.O.
For the Workman	:	Sri B. Prasad, State Secretary, UCO Bank Employees Association, Patna.
Present	:	Priya Saran, Presiding Officer, Industrial Tribunal, Patna.

AWARD

The 27th day of July, 2004.

By adjudication order No. L-12011/194/2001-IR (B-II) dated 07-05-2002 the Government of India, Ministry of Labour, New Delhi has referred, under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 and Section 7-A of the Industrial Disputes Act, 1947 (hereinafter to be referred to as 'the Act'), the following dispute between the management of UCO Bank, Regional Office, Mouryalok Complex, A-Block, Patna and their workman represented by the State Secretary, UCO Bank Employees Association Exhibition Road, Patna for adjudication to this Tribunal :—

> "Whether the action of the management of UCO Bank Bidyajhamp Branch in not regularising Shri Parmanand Pandey, S/o. (Late) Satrughan Pandey as Peon is justified? If not, what relief the workman is entitled to?".

2. Both the parties filed their written statements and contested the reference. The worker has filed rejoinder also. The case in brief, of worker Shri Parmanand Pandey (hereinafter to referred as the 'workman') in view of his written statement and rejoinder is that he was orally appointed as peon on the date of opening of Bidyajhamp Branch of UCO Bank on 29-3-1985. The management instead of issuing him an appointment letter of a peon appointed him as a sweeper on a consolidated wage of Rs. 200/- P.M. which was raised from time to time and stands presently at Rs. 740/- P.M. He was also paid wages @Rs. 50/- per day during 1993-1994. The worker has been performing the work of cleaning, sweeping, opening of the Bank's gate, taking out Ledgers/Registers from almirah and placing those on tables, posting of mails, accompanying Cash remittance, carrying token Book and Scroll Register, stiching of currency notes/ vouchers and serving water to the staff and customers. It is further stated that he passed matriculation examination while working in the Bank. The management formulated a Scheme for the promotion of matriculate Part-time sweepers to the post of peon. The workman in view of above scheme applied for his promotion but his case has not been considered till date. The further case of the worker is that the management on settlement with the various unions in 1989 came out with a Scheme to regularise the services of daily rated workers, who had worked for 240 days during the period between 12-10-86 to 12-10-89. The Worker's application for permanent absorption as a peon was neither considered by the management nor he was empanelled for permanent absorption. In view of negative attitude of the management the present Industrial Dispute was raised on the ground of non-implementation of aforesaid Schemes thereby depriving the worker of his legitimate claim of permanent absorption although he has been working continuously for over 17 years. The worker has prayed for his regularisation with effect from 29-3-1985 together with allied benefits.

3. Management's case in short, in view of their written statement, is that the workman was initially engaged as part-time sweeper and he is getting at present Rs. 740/- P.M. non consolidated basis. The Bank in view of settlement with various unions and its circular dated 19-10-89 could not consider worker's application dated 20-6-2003. The Reserve Bank of India has put a ban/ restriction on the recruitment of staff members *vide* letter dated 16-12-97. It is further stated that All India UCO Bank Employees Federation raised a dispute for regularisation before Hon'ble High Court, Calcutta vide W.P. No. 1390 of 98 wherein the Hon'ble Court gave an opinion that the Bank Authorities should consider the case of the petitioner in the Writ Application and shall absorb the rest of the casual workers as and when Reserve Bank of India lifted the restrictions. The Hon'ble Court also directed not to fill up any post until those casual workers were absorbed. It is also stated in the Written Statement that in view of Hon'ble Court's direction, the Govt. did not refer the disputes for adjudication of certain employees. In view of

above assertions, the management has founded their claim.

4. Many a facts of this case are not disputed, such as that the worker was initially appointed at Bidyajhamp Branch of UCO Bank as part time sweeper on consolidated basis. He is being presently paid a sum of Rs. 740/- P.M. It is also an admitted fact that a settlement was signed at Apex Level between the management and various unions for permanent absorption of casual workers, who had worked for 240 days in between 12-10-86 and 12-10-89. It is also not in dispute that the worker is still in Bank's service at Bidyajhamp Branch as part time sweeper on consolidated wage.

5. It is strange enough that the management has not controverted so many facts which we find narrated in the statement of claim filed by the worker, wherein he has emphatically claimed that he has been doing besides sweeping the Branch premises, the work of cleaning counters, tables etc., arranging ledgers from Almirah to table and vice-versa, posting of mails, carrying the cash remittance, Token Book and Scroll Register, stiching of currency notes/vouchers and serving water to the staff and others. It has further not been denied by the management that the worker passed his matriculation examination while in service but his application to promote him as a peon in view of such a scheme was not considered by the management. All these facts have been aserted by the workman before this Tribunal as well on oath as WW1. He has also stated in the court that there was no permanent peon in the Bank when he was engaged at the Branch. Two years thereafter a peon was posted there but since after his transfer in the year 1998, no permanent peon has been attached with the Branch. The witness also claims that some part-time sweepers who were matriculate, were appointed and posted as permanent peon by the management. There is absolutely nothing in his cross-examination to favour the management. Still another witness for the workman WW2 Chandra Kant Prasad an employee of the UCO Bank, very well supports worker's case. The witness was posted at Bidyajhamp Branch as Clerk-cum-Assistant Cashier from 1985 to 1989. The worker Parmanand Pandey according to him was working as sweeper-cum-peon and there was no permanent peon. The worker continuously performed the work of a sweeper and peon both during all those years while the witness was posted at Bidyajhamp Branch. The witness further says that there is no permanent peon in the said Branch even today.

6. The worker has filed serveral documents as well in support of his claim. His two applications for absorption as peon are Exts. W/9 and W/10. His former application was forwarded by the Branch Manager to the A.G.M. Regional Office, Patna with recommendation to consider the same on 20-6-2003 vide Ext. W/8. This is of course a post reference document but earlier application Ext. W/10 alongwith marks sheet and School Leaving Certificate for appointment as full time peon after his matriculation result is also before us which bears bank's seal acknowledging its receipt. The School Leaving Certificate Ext. W/11 and matriculation marks sheet Ext. W/12 do very well suggest that the worker passed his matriculation examination in the year 1992. We also find that the worker was accorded permission to appear at the examination vide Ext. W/18. On receipt of worker's application there was some correspondence and enquiry in the office at various level which is displayed by letter dated 5-11-1992 of the Branch Manager to the Zonal Office carrying worker's appointment letter (Ext. W/2), letter from Zonal Office dated 21-10-92 to the Branch Manager requiring him to send Zerox copy of appointment letter (Ext. W/3), letter dated 24-2-94 of the Divisional Manager, Patna to the Branch Manager to verify pasing of worker's matriculation examination (Ext. W/4), letter dated 11/14-2-94 from Zonal Manager to the Divisional Manager (Ext. W/15), letter dated 21-10-92 from Deputy Chief Officer (Personnel) to the Branch Manager requiring Zerox copy of appointment letter (Ext. W/16) and letter dated 3-3-94 of the Branch Manager to the Divisional Manager, Patna after verifying the the veracity of worker's claim of his matriculation result (Ext. W/17). All aforesaid documents clearly indicate that soon after his matriculation result, the worker submitted an undated application (Ext. W/10) alongwith documents for appointment as a regular peon in the Bank. Vide Ext. W/17 he was found to have passed his matriculation examination as claimed. The evidence, both oral and documentary, led by the workman is quite consistent and truly convincing to show that he had passed matriculation examination in the year 1992 but his claim for appointment as a permanent peon was not positively favoured by the management. Some more documents filed by the worker are on the record. These are Ext. W/1 (Certificate issued by the Branch Manager about worker's engagement at the Branch on daily payment basis), Exts. W/6 and W/7 regarding worker's wages and details there of and Ext. W/14 the appointment letter dated 16-10-89 showing that the worker was appointed on consolidated pay and he was directed to perform duty in Bank for not exceeding 5 and 1/2 hour in a week. It may be mentioned here itself that management's learned representative gave much emphasis on above appointment letter while placing his argument that the worker was never appointed to perform his duties beyond 5 and 1/2 hours in a week and his service was purely contractual and accordingly he cannot claim for absorption on permanent basis since not being a casual worker. I fail to understand and appreciate this sort of submission when evidence before us is in abundance and quite ex parte to show that the worker has been continuously discharging the duties of a regular peon and sweeper since his appointment in the Bank. As per Ext. W/1 he has been in the Bank on daily payment basis since 2-4-1985. The witnesses examined by the worker including, one being Bank's regular employee, have given a clean support to the worker's stand in this context.

7. Let us now see what is the evidence from the management side. The sole witness MW1 Vijoy Kumar is an Officer in Bank's Regional Office at Patna. He simply

states that the worker is a sweeper on consolidated basis at Bidyajhamp Branch of the Bank. He further states about the case before Hon'ble Calcutta High Court, Reserve Bank of India's restrictions and Govt.'s refusal to refer the disputes of four workers for adjudication. This witness is not at all supportive to the management on fact. He neither disputes worker's claim nor says anything positive to justify the management's stand.

8. The management has also filed some documents. These are Ext. M/1 (Circular dated 19-10-89 regarding absorption of persons engaged on daily basis who have worked for 240 days or more within three years from the date of settlement dated 12-10-89), Ext. M/2 (Judgment of Calcutta High Court regarding absorption of empanelled Workers), Exts. M/3 to M/6 (refusal of the Govt. to refer the disputes of four different employees), Ext. M/7 (Reserve Bank of India letter dated 16-12-97 with some restrictions on recruitment) and Ext. M/8 (Chart showing number of days the worker did work in the Bank and amount paid to him).

9. It was submitted by Bank's representative that the worker did not work for a minimum of 240 days during a span of three years preceding settlement and so, his claim for empanelment and appointment in view of Ext. M/1 is not maintainable. True it is, that the worker's claim is not supported from the documents Ext. M/8 as well as Exts. W/6 and W/7. Exts. M/8 and W/7 are charts prepared by the Bank showing the number of days the workman put in service on daily wages. Ext. W/6 starts from the October. 89 showing payment to the worker on consolidated basis. This document is apparently of no help to the worker. On the other hand it was contended on worker's behalf that Exts W/7 and M/8 have been prepared by the Bank to suit their own requirement in denial of worker's claim and can not be accepted in view of clinching evidence of workers's witnesses. This argument definitely bears merit and can not be easily brushed aside. Even we Leave this aspect of worker's claim, he has advanced an alternative stand as well for his permanent absorption in view of his unabated and continuous service to the Bank till date. He appears to have been serving the Bank since April, 1985. He is presently getting a paltry sum of Rs. 740/- P.M. on consolidated basis, which is just amazing. It so appears from evidence that the worker though appointed as part-time sweeper but the Bank utilised him as a full time employee in discharge of all such works of a peon, to which he could not have possibly protected.

10. At the time of argument, management's representative placed before me Bank's Circular dated 16-2-82 containing policy and procedure concerning appointment and promotion in respect of full-time and part-time sweeper. This document no where appears putting impediment to the absorption of the worker on regular basis. The evidence on record clearly establishes the case of the worker. He joined the Bank on daily wage in April, 1985 and was appointed on consolidated pay on 16-10-89. He passed matriculation examination after due permission from the Bank in the year 1992. He applied soon thereafter for his promotion as a regular peon but the Bank did not positively respond although there had been some movement of file and investigation with regard to worker's claim. The Bank appears having slept over the issue since 1992 without answering worker's prayer this way or that way. This is quite alarming and apathetic on management's part. Worker's claim stands on cogent grounds and the Bank's management must have paid proper attention in view of his long continuous and unblotted service. The management has not been able to lay anything convincing before me to extend it any sort of favour. I fail to understand as to why none of the Branch Manager of Bidyajhamp Branch has been exmained in this case, who would have narrated every details concerned with the case. Hon'ble Court's judgment and Reserve Bank of India restrictions also are of no avail to the management in the facts and circumstances of the case. Likewise, Govt's refusal to refer four disputes has no bearing with the present case since those were related to empanelled workers covered by Hon'ble judgment, we find hence that no material whatever we got on record on behalf of the management, is of any help to it.

11. In the result, I in view of discussion aforesaid and the materials on the record am of considered view that the worker has justifiably established his case with a scope for a contrary view. The worker is entitled for absorption as a peon on permanent basis. It is accordingly held that the action of the management of UCO Bank in not regularising the worker, Sri Parmanand Pandey as peon is absolutely unjustified. The worker is accordingly entitled to his claim of absorption as a peon in the Bank on regular basis with all benefits allied thereto. The management is directed to consider the case of the worker for his regularisation in positive manner and appoint him as a regular peon within three months from the date of publication of Award subject to his full-filling eligibility criteria.

12. Award accordingly.

Dictated and corrected by me.

PRIYA SARAN, Presiding Officer

नई दिल्ली, 6 अगस्त, 2004

का. आ. 2208.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 8/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-8-2004 को प्राप्त हुआ था।

[सं० एल-12011/20/2001-आई.आर. (बी-II)]

सी. गंगाधरण अवर सचिव

New Delhi, the 6th August, 2004

S.O. 2208.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 8/2001) of the Industrial Tribunal-Cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 4-8-2004.

[No. L-12011/20/2001-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present :—Shri E. Ismail, B. Sc., LL.B.,
Presiding Officer

Dated the 10th day of March, 2004

INDUSTRIAL DISPUTE NO. 8/2001

BETWEEN:

The General Secretary, ...Petitioner
Andhra Pradesh Bank Workers
Organization, 1-8-565/5,
RTC 'X' Road,
Hyderabad-500 020.

AND

The Regional Manager, ...Respondent
Central Bank of India,
Bank Street, Koti,
Hyderabad-500 020.

APPEARANCES:

For the Petitoner : M/s M. Pandu Ranga Rao & M.V. Rama Rao, Advocates.

For the Respondent : M/s. A. Krishnam Raju, G., Dinesh Kumar & G.V.N. Babu, Advocates.

AWARD

The Government of India, Ministry of Labour by its Order No. L-12011/20/2001-IR(B-II) dated 26-4-2001 referred the following dispute under Section 10(1) (d) of the I.D. Act, 1947 for adjudication to this Tribunal between the employers in relation to the Management of Central Bank of Inddia and their workman.

SCHEDULE

"Whether the action of the management of Central Bank of India, Hyderabad in terminating the services of Sri T. Srinivasa Rao, Attender is legal and justified? If not, what relief the workman is entitled to?".

This reference was registered as Industrial Dispute No. 8/2001 and notices were issued to the parties.

2. The brief averments of the claim statement are : That the Petitioner was appointed as attender in the Respondent bank with effect from 1-7-1976. He was assigned the duties of Dafthari in the year 1990 and posted to work at Begum Bazaar branch of the Respondent. That on 29-6-95, the officials of Central Bank of India, Begum Bazaar Branch forced the workman to give a letter in writing under threat of arrest by the police. That he had manipulated the bills with regard to the purchase of stationery, Gas for the light and claimed excess amounts and utilized the same. Therefore, he was kept under suspension by the Regional Manager, Central Bank of India, Hyderabad vide Memo dated 14-7-1995 on the ground of misappropriation of bank funds, tampering the P&L vouchers of table stationery and other items. It is submitted that it was the first memo with regard to the said allegation and prior to that no memo or oral enquiry was conducted against the workman. Therefore, after he was issued with chargesheet in the year 1995. Framing two charges alleging that the workman has misappropriated the bank funds by tampering the P&L vouchers relating to the supply of table stationery and other items to the bank to the extent of Rs. 1,162/- and fraudulently received an amount of Rs. 2858. 10 ps. by preparing P&L debit vouchers without any bills. An Enquiry Officer was appointed and the enquiry was conducted. The Enquiry Officer, without asking the Mangement to prove the charges asked the Petitioner to disprove the charges, which is illegal and arbitrary. Though the workman has denied the charges, the Enquiry Officer with connivance of the Presenting Officer recorded the proceedings in English and held him guilty. When he protested he was said that nothing would happen to him. The report was submitted on 24-3-1996 holding the workman guilty of charges. A personal hearing was given on 18-5-96 with regard to the propsoed disciplinary action. That he has been made a victim of the fraud played by the Accountant and other employees of the branch which was further perpetrated by the Enquiry Officer. He was dismissed from service vide orders dated 28-5-96 and the Appellate Authority without considering to these things confirmed the punishment of dismissal form service on 22-10-96. As conciliation proceeding failed before the Regional Labour Commissioner (C), hence this reference.

3. It is the duty of the Dafthari to carry files from one cabin to another and to the record room. It is duty of the concerned clerk to prepare the vouchers with reference to the bills submitted by the seller and these bills and vouchers have to be sanctioned/passed by the Branch Manager and in his absence by the Accountant only after proper verification. That only to escpae the liability the blame was thrown on him. Hence, it may be held that the enquiry is bad, vitiated and workman is entitled for reinstatement with continuity of service.

4. A counter was filed stating all those facts as averred in the claim statement. That a chargesheet was given to the Petitioner and an enquiry was conducted fairly. That the punishment of dismissal is highly disproportionate to the charges levelled against the workman.

5. It is submitted that the misconduct of the workman Sri. T. Srinivasa Rao shows that moral turpitude on his part and he has pleaded guilty of his charges and no sympathy shall be shown to him or the said amounts were reimbursed by the workman. Hence, the petition may be dismissed.

6. Arguments were heard on the validity of domestic enquiry and this Court held by its order dated 29-4-2002 held that the enquiry was held in valid because the entire reliance was on the alleged confessions of the Petitioner and no witnesses were examined and that the Petitioner complained that everything was taken by force. Therefore held that the enquiry was invavlid on 29-4-2002. Accordingly Management examined MW1 Sri A. Bhaskar Rao, Senior Manager with the Respondent bank. He deposed that during the month of May, 1995 internal audit took place at Begum Bazaar branch. The auditor pointed out some irregularities relating to purchase of table stationery and other stationery at the branch. That no bills were attached to the debit vouchers and amounts were inflated and pointed out that the Petitioner herein T. Srinivasa Rao took the advantage of these amounts. Ex. M1 is the report of the Chief Internal Auditor dated 26-6-95. After Ex. M1 was received they received a letter from Begumbazaar branch stating that the Petitioner herein Srinivasa Rao had given a confession which is Ex. M2. Enclosing the confession of Srinivasa Rao written by him in Telugu dated 29-6-95 which is Ex. M3. After receipt of Ex. M2 enclosing Ex. M3, the Regional Manager directed him to go and look into the facts at Begumbazaar branch on 12-7-95 and he verified all the vouchers pointed out in Ex. M1 he was also informed by staff members that T. Srinivasa Rao himself owned the vouchers and received the amounts by signing on the back side of the vouchers. Ex. M4 is his report to the Regional Manager after having inspected and verified at Begumbazaar branch dated 13-7-95. After his report Srinivasa Rao was suspended. Ex. M5 is the suspension letter dated 14-7-95. Ex. M6 is the charge sheet dated 5-9-95 Ex. M7 is the corrigendum dated 4-11-95.

7. In the cross examination he deposed that he went to inspect and look into the matter on 12-7-95. Srinivasa Rao was not there in the office. Hence, he could not enquire from him. At the relevant time there was shortage of staff. The general clerical staff will prepare the vouchers. Accountant or in his absence Manager will prepare the vouchers. For petty amounts formal receipt is not insisted and it will be passed by Accountant or Manager as the case may be. It is not true to suggest that Ex. M4 his report is based on assumptions and not based on facts.

8. In the re-examination, he deposed that Srinivasa Rao was given a punishment of withholding two increments with cumulative effect for giving false T.C. and false declaration about his educational qualification in the application form for securing employment. Ex. M8 is the show cause notice dated 10-9-1986. In the instant case besides Srinivasa Rao the accountant Sri L.R. Kulkarni was awarded a punishment of stoppage of two increments without cumulative effect for negligence in passing the vouchers. Sri L.R. Kulkarni was issued with charge sheet for negligence and procedural lapse. There was no regular enquiry against L.R. Kulkarni.

9. One Mr. P. Srinivasa Chary was exmained as MW2 who worked as Manager (Retired) with the Management. He deposed that the misappropriation and tampering of bills by the sub-staff T. Srinivasa Rao has come to light during the course of audit. The internal auditor asked Mr. Srinivasa Rao to produce the relevant bills as the bills used to be kept in the safe custody by him only. Further the items which were purchased and costs paid by purchase by T. Srinivasa Rao. As the said items used to be the day to day requirements of the branch. Almost all the vouchers pertaining to purchases of table stationery and other stationery appears to be prepared by T. Srinivasa Rao himself and the payments received by him. All the vouchers which have been affixed with the stamp 'pay cash' were passed by Kulkarni, Accountant. It is the practice of the branch to entrust purchase of table stationery and various items for day to day requirements of the branch, to Mr. Srinivasa Rao and passing the vouchers for payments by the accountant. The internal auditor on pursuing the vouchers has observed that the bills have been inflated duly making certain additions and corrections to the original bills. Having identified that Srinivasa Rao in alone was responsible in altering the figures of the bills and vouchers, he has questioned him in detail and inferred that his observation is true. further he also observed that some of the vouchers which were prepared and encashed by Srinivasa Rao were devoid of any supporting bills as Srinivasa Rao expressed to him that the bills in question were not traceable. Further when the internal auditor questioned Srinivasa Rao verbally he confessed and internal auditor concluded his audit on 22-6-95 and Mr. Srinivasa Rao went on leave form 24-6-95 onwards. Suddenly on 29-6-95 Srinivasa Rao waked into his chambers and handed over representation in Telugu with a request to forward the same to the Regional Office for their sympathetic consideration which was Ex. M3 and was forwarded by the branch vide letter dated 1-7-1995, Ex. M2.

10. So after Mr. Bhaskar, DCO, Personnel, was deputed to the branch to investigate into the matter. On doing so Mr. Bhaskar Rao has submitted a report to the higher authorities and also confirmed the report of the internal auditor. The Regional office has issued charge sheet on the grounds of misappropiration of bank funds by way of tampering vouchers etc. as detailed in the charge sheet Ex. M6 and M7. Towards ensuring the genuine bill amounts rates of various table stationery, gas-refilling, etc., pertaining to the disputed bills of the branch has written to the supplies to furnish the bill amounts for the items purchased for the branch on specific dates. Ex.M9 is the office copy of the letter dated 13-10-1995 addressed to M/s. Mini Gas Agencies which is Ex. M10. They have given the rates of the purchases of the specific dates which on verification has revealed the tampering of the bill amounts. The bills purchased by Srinivasa Rao shows that they have been tampered. EX. M17 to M1 48 are vouchers which are produced by Srinivasa Rao to claim the amounts. The amounts were received by Srinivasa Rao by signing on the reverse.

11. In the cross examination, he deposed that it is true that he was not present when internal auditor questioned Mr. Srinivasa Rao. He denied that he called Mr. Srinivasa Rao when he is on leave on 29-6-95 under the threat that he would be handed over to police unless he

writes such statement. It is true that no memo was issued to Mr. Srinivasa Rao making any allegations against him. That the vouchers Ex. M17 to M48 are not relevant to the charge sheet. He denied that Petitioner is not responsible.

12. MW3 Sri K. Ramachandra Rao, E-grade cashier with the Respondent bank deposed that when he worked at Begumbazaar branch. Daftry and cash peons and other peons used to purchase table stationery and other miscellaneous things. Daftari used to purchase and bring stationery required by the branch. The vouchers relevant to the stationery items have to be prepared by the clerical staff but when the clerical staff is busy they used to prepare the vouchers themselves. The payments under these vouchers were received by the sub-staff whoever brought the items from the market by signing on the back of the vouchers. Mr. Srinivasa Rao signed on the back of the vouchers Ex. M18, M26, M28 to M46, M48, to M50. That he can recognize the signature of Mr. Srinivasa Rao and on the said exhibits he only signed. In the cross-examination he deposed that when the temporary staff purchased the material their signature was not obtained on the vouchers.

13. The Petitioner examined himself as WW1. That he went on leave on 25-6-95 due to his ill-health. On 29-6-95 the Manager of the branch Sri. P Srinivasachari sent one temporary attender by name Laxminarayana to ask him to come over to the branch. Accordingly he went to the branch immediately. He was called in the chamber of the Manager and he wrote a letter dated 29-6-95 as dictated by the Manager and before that neither he was informed orally nor in writing about the misappropriation of the amounts by tampering P&L vouchers. Only on 5-5-96 he received a charge sheet. All the articles mentioned in Ex. M17 to M50 are not purchased by him. Sometimes temporary attenders were asked to purchase the stationery and other times but he was asked to prepare the vouchers and sign as if the amounts were received by him. But he cannot say what are the items purchased by him and others from Ex. M17 to M50. He has not done any alterations in the bills and filed under Ex. M11 to M16 and nor inflated the amounts. In the cross-examination he deposed that before Ex. M6 charge sheet he was issued with a charge sheet by the bank for submitting a certificate having passed 7th class though by that time he studied up to X class. That he admitted the charges levelled against him and the punishment of stoppage of two increments. He does not remember whether he submitted leave application on 24th or 25th June, itself. That he is a member of All India Bank Employees Association. He did not report either to the union or to the police about obtaining Ex. M3 letter forcibly from him by the bank officials under the threat of handing over him to the police. The signature of Ex. M18 to M26, M28, M46, M48 to M50 are his signatures. He might have received some amounts under this exhibits. He does not remember. whether he reported for duty after proceeding on leave from 25-6-95 onwards. He does not remember the name of the shops from where he used to fill the gas in petromax lights. There might be a gas filling station by name Mini Gas Agencies. He denied that he inflated the original amounts under Ex.M11 to M16 and claimed excess amounts.

10. It is argued by the Learned Counsel for the Petitioner that the workman was appointed as an attender in the Respondent bank with effect from 1-7-76. He was assigned the duties of Daftari in the year 1980 and was working at Begambazaar branch at the relevant time. While so on 29-6-95 the concerned workman was on leave. He was called by the Branch Manager to the bank and was threatened and forced to give a letter in writing that he was responsible for claiming excess amountts by inflating P&L bills and vouchers. It is submitted that this letter was taken by coercion and under threat of handing over him to police. Thereafter he was placed under suspension. That this Court by an order dated 29-4-2002 held that the enquiry is vitiated and granted permission to the bank to prove the charges before this Hon'ble Court by adducing evidencde. The Respondent examined three witnesses in support of the charges and through them marked Ex. M1 to M50. Two charges were levelled against him. One is that he misappropriated the bank funds for his personal use by tampering vouchers of the bills relating to the supply of stationery and other items to the extent of Rs. 1162/-. The second charge is that the workman has fraudulently received an amount of Rs. 2858/- by preparing himself P&L debit vouchers without any bills on different dates. To this charge-sheet a corrigendum was issued which is Ex. M7 wherein certain items were deleted and amounts in certain items were reduced. That three witnesses are examined MW1 to MW3.

11. That MW1 who is working as Senior Manager has admitted in the cross-examination that for petty amounts formal receipt is not insisted upon, from this statement it is clear that there need not bill for every voucher passed with reference to the expenditure. Since the amounts mentioned in charge No. 2 are petty amounts the amounts must have passed without bills. If at all there is doubt about the genuineness of the expenditure made, the Passing Authority should have insisted upon production of the bill. Having passed the voucher and released the payment now the Respondent bank cannot say that the workman had fraudulently received the amount. Now, the Respondent bank had already submitted that there is no evidence in support of charge No. 2, it has to be held as not proved and should therefore, he withdrawn. So far as charge No. 1 is concerned, the gas would supposed to be purchased from M/s. Mini Gas Agencies seeking details of the amounts under the bills wherein the amounts were said to have been drawn by the workman. M/s. Mini Gas Agencies was only supplying gas cylinders whereas under charge No. 1 the payments mentioned relate not only purchase of gas but also stationery and other items. In fact, the amounts relating to gas items are only six in number out of 17 items mentioned in charge No. 1. The Respondent did not even try to get information with reference to supply of other items. Further Ex. M10 letter cannot be relied upon to prove the charge against the workman since it is not made known before the Hon'ble Court as to who wrote the said letter and how it reached the bank. When a document

is sought to be relied upon the author of the said document should be examined. In fact MW3 who was working as a clerk at relative point of time as admitted in the cross-examination and there was also other temporary staff working at that time in the branch and they also used to purchase material but for payment to be made for those items, the signature of regular staff were used to be obtained on the vouchers to show the payments. This itself clearly establishes that though there were signatures of the workman on the vouchers marked before this Hon'ble Court, it cannot be said that all the amounts mentioned on those vouchers were received by him. In fact MW3 has also stated in the cross-exmaination that Ex. M 28 and M 30 vouchers were prepared by Kalavathi and M.S.N. Rao respectively who were working as officers at that time. it was held by Holn'ble Supreme Court in 1990 (2) age 10 wherein, it was held that, "provision permitting bringing on record statement of a witness without producing him at the domestic enquiry—conditions precedent for invoking—held, can be invoked only when the presence of the witness cannot be procured without undue delay, inconvenience or expense and not otherwiser." He also relied on 1998 (3) Supreme Court cases page 227 wherein it was also held by the Hon'ble Supreme Court that any statement recorded behind the back of a person cannot be made use of against him, unless the person who is said to have made the statement is made available for cross-examination to prove its veracity. As already submitted, Ex. M3 letter dated 29-6-95 which was written; by the workman was written under coercion that he would be handed over to the police. That the said letter is taken by him by the Branch Manager after calling him from leave. The Petitioner's Counsel relies on 1999 (2)SCC wherein it was held that, "Departmental enquiry—Judicial review—not totally barred—Finding of guilty although would not be normally interfered with, held, the court can interfere therewith if the same is based on no evidence or is such as could not be reached by an ordinary prudent man or is perverse or is made at the dictates of a superior authority." He also relies on 1998.(3) Supreme Court Cases page 227 wherein it was held that "a Government servant charged of living together and having extra-marital sexual relationship with a lady—CAT setting aside the punishment of compulsory retrenchment on account of want of evidence to substantiate, the charge, on the ground that similarity of handwriting, signature or telephone numbers that the name occurring in certain documents was that of the delinquent employee only one of seven documents was proved. The said document allegedly containing the statement of the lady in question and the Disciplinary Authority without offering her for cross-examination. The witness in whose presence the said statement was allegedly made had not spoken to the details of the contents thereof. Thier Lordhips refused to interfere with the findings of the CAT. He further submits that this case applies in all force to the present case wherein the Mini Gas Agencies was not examined and even according to MW1 Senior Manager, that for petty amounts formal reciept is not insisted upon. Since the amounts mentioned in charge No. 2 are petty amounts. The amounts must have been passed without bills. If at all there was doubt about the genuineness of the expenditure made the passing authority should have insisted on production of the bill. Now, they cannot turn round and say that the bill is passed without expenditure. Hence, he submits that the order of dismissal may be set aside and the Petitioner may be reinstated with full back wages.

12. It is argued by the Lerned Counsel for the Respondent that the amounts altered in bills is approximately in Rs. 875 for gas refilling and Rs. 287 in table stationery. It appears that the benefits has been taken by the Petitioner herein. However, the accountant has passed the vouchers in negligence and without verifying the rates etc. They do not find any malafide mention on the part of the accountant. As there was no control on each P&L voucher and all the bills for verification the officers of the branch were not in a position to confirm that all stationery was received and fully paid. That it is their opinion that misapropriation of about Rs. 5000 to 7000/- has been made. That Sri. T. Srinivasa Rao, Daftry has benefits. Incharge has not signed that having received the articles. He further submits that the chargesheeted employee has admitted this charge and denied the second charge. So even admitting that the first charge is proved because of his admission it can be clearly seen that itself is a sufficient ground to remove him from service because when a person goes to the extent of altering the bills he cannot be continued in the office without peril to the customers interst. Not only that he had second time also said that he pleads guilty to the first charge and he has also admitted that he has prepared all the vouchers pertaining to the second charge. He has searched for the bills but coult not get it. Being Daftry of the branch he is responsible for the bills and vouchers. As these bills are not available he has no alternative left but to accept the second charge also and he pleaded guilty for the second charge also. In his explanation he gives that his daughter was married in May, 1994. He has availed a marriage loan and other loans from the society. He was in lot of financial problems during this period. Added to this his wife was suspecting him of having relationship with another lady. Due to this, there was no peace in the family. That his wife and her relatives attacked him on number of occasions and even poured acid on him. Though he wanted to lodge complaint at Police Station but on deciding that she will go behind bars because they forced him and his father to divide the house which is his ancestral property. He has no means to make his ends meet, he has unwittingly committed mistakes. That he has served for 20 years. So he submits what is it, what mere the Enquiry officer had to conduct the enquiry. He has categorically admitted and also given the circumstances due to which he continued to misappropriate. Added to that this Hon'ble Court by order dated 29-4-2002 has held that the enquiry is not valid and accordingly three witnesses were examined on behalf of the Management bank. They have marked Ex. M1 the report of the Chief Internal Auditor. Further Sri Srinivasa Rao had given a confesson which is Ex. M2 dated 1-7-95 enclosing the confession of Srinivasa Rao written by him in Telugu

which is Ex. M3. That MW1 has further deposed that Srinivasa Rao himself own the vouchers and received the amounts by signing on the back side of the vouchers. That MW2 who has retired was working as the then bank Manager. He had deposed that the misappropriation of funds that is tampering of bills. That the sub-staff has to come to light during the course of audit. The internal auditor asked Sri Srinivasa Rao to produce the relevant bills as the bills used to be kept in custody by him only. Further the items were purchased by Srinivasa Rao. Not only that a reply was also received from Mini Gas Agencies which is marked as Ex. M10. It may be seen that the bills are tampered. They are Ex. M11, M12, M13, M14, M15 and M16, which goes to show that he has tampered. Further in Ex. M10 the details are given for how much amount the bills were and there can be no other conclusion that it was the Petitioner who has tampered. MW3 is the cashier who deposed that Srinivasa Rao signed on the back of the vouchers marked as Ex. M18 to M26, M28 to M46, M48 to M50. He has received the cash. That he can recognize the signature of Srinivasa Rao on the said exhibits. So he submits that the case is fully proved. Although the Hon'ble Court held that the enquiry is not valid, yet, the same was proved by evidence in the Hon'ble Court.

13. It may be seen that on holding the enquiry as invalid by this Court the Management examined three witnesses MW1 to MW3 and the Petitioner himself examined as WW1. In order to appreciate the rival contentions of both the parties it is better to go first to the evidence of WW1 who deposed that he was on leave due to ill-health from 25-6-95. On 29-6-95 the Manager of the branch sent one temporary attender by name Sri Laxmi Narayana to his house asking him to come over to the branch then he was called to the chamber of the Manager and was informed that there was called to the chamber of the manager and was informed that there was discrepancy in P&L vouchers of stationery and other items and asked him to give a letter that he is responsible for the same. When he refused to do so he was threatened by the Branch Manager and also by Sri Raghuvir who was Joint Secretary of the All India Bank Officers' Association and Sri Dhananjyachari who also officer bearer of the officers' association, that unless he given in writing that he is responsible for the discrepancies in P&L vouchers he would be handed over to the police. He gave a letter dated 29-6-95 as dictated by the Branch Manager. That he is not involved in any misconduct for alteration of the bills and vouchers. That he was not informed orally or in writing except that charge-sheet was issued to him dated 5-9-95. Sometimes temporary attenders used to purchase the stationery and other items but he was asked to prepare the vouchers and signed as if the amount was received by him. This was done as the names of temporary attenders cannot be shown on record. That he has not done any alteration in Ex. M11 to M16 of the Mini Gas Agencies. In the cross examination he deposed that before Ex. M6 chargesheet which is subject matter of this case, he was issued with a charge sheet by the Respondent bank for submitting a certificate having passed 7th class by that time he has studied upto 10th class. That he admitted that charge levelled against him and punishment of stoppage of two increments was given. That he did not report either to the union or to the police about obtaining Ex. M3 letter forcibly by the bank officials. The signatures on the back of vouchers marked as exhibits M18 to M26, Ex. M28 to M46, Ex. M48 to Ex. M50 are his. It is not true that the amounts mentioned were received by him. He might have received some amounts. That there might be a gas filling shop by name Mini Gas Agencies. Occasionally he has got gas filled for the bank. In Ex. M16 and Ex. M14 there appears to be some corrections regarding the price and the total amounts. MW1 deposed that Ex. M4 is his report to the Regional Manager, after having inspected and verified at Begumbazar branch, Srinivasa Rao was suspended. In the cross examination he deposed that he went to inspect and look into the matter on 12-7-95, Srinivasa Rao was not there in the office hence, he could not enquire from him. In general the clerical staff will prepare the vouchers. Accountant or in his absence Manager has to pass the vouchers. For petty amounts formal receipt is not insisted. That in the instant case besides Srinivasa Rao, the accountant Sri L.R. Kulkarni was awarded a punishment of stoppage of two increments without cumulative effect for negligence and procedural lapses. MW2 also deposed that Mini Gas Agencies confirmed as to difference in the bill amounts and that all the bills were produced by Srinivasa Rao are from the Mini Gas Agencies so far as the first charge is concerned. MW2 has said in the cross examination he deposed, so far as he remembers he has not spoken to any of representatives of M/s Mini Gas Agencies. He denied that Ex. M9 and M10 were not given by M/s Mini Gas Agencies. When vouchers has to be passed it should be verified by concerned person and only then it will be passed. He denied that in order to save himself and the Accountant, Srinivasa Rao was implicated.

14. It may be seen that no doubt I held that the enquiry is bad, holding that some witnesses should have been examined. Accordingly, the three witnesses were examined. However, none were examined from M/s Mini Gas Agencies. Where he says that items Ex. M11 to M16 were not purchased by him. He had not done any alterations in Ex. M11 to M16. He admitted that in Ex. M16 and M14, there appears to be some corrections regarding price and total amounts. He goes to the extent of saying that there might be an agency by name M/s Mini Gas Agencies and he says that he does not remember the name of the gas filling in petromax lights shops. That the signatures on the back of vouchers Ex. M18 to M26, M40 to M46 and M48 to M50 are his signatures. According to MW2 the amounts were claimed by the Petitioner and further in the cross examination WW1 has admitted that the items were purchased by him and in Ex. M11 to M16 there are alterations. No doubt there is some fault on the part of the Respondent bank in not examining the person who has issued Ex. M10. No doubt the author of Ex. M10 was not examined which would have been done so. But it is crystal clear that the Petitioner has a doubtful intergrity as he has given wrong qualifications that he has passed 7th or 8th

class, when he has passed 10th class for gaining employment. No doubt, in this case it should not be proved beyond reasonable doubt as in a criminal case. If it is proved if the probabilities are so it is sufficient. But however, the Petitioner has worked from 1-7-76 as attender and assigned the duties of Daftry in the year 1990 and dismissed on 28-5-96. So he has put in from 1-7-76 to 28-5-96, he is aged about 53 years. But for these latches which are not conclusively proved but there is every probability seeing his past conduct also, I am of the opinion that reinstating him back will not be proper. Hence, But some compensation can be given to him as he has worked for almost 20 years giving him 10 months gross pay last drawn would meet the ends of justice. Hence, I hold that the action of the Management of Central Bank of India, Hyderabad in terminating the services of Sri T. Srinivasa Rao is legal and justified, however he is entitled for 10 months gross pay calculated as per last drawn pay, to be paid within 30 days from the publication of this award failing which he will be entitled to 12% interest per annum on the said amount after 30 days of the publication of this award.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 10th day of March, 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1 : Sri T. Srinivasa Rao	MW1 : Sri A. Bhaswkar Rao MW2 : Sri P. Srinivasachary MW3 : Sri K. Ramachandra Rao

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

Ex. M1 : Copy of report of Chief Internal Auditor dt. 26-6-95

Ex. M2 : Forwarding letter to Ex. M3 dt. 1-7-95

Ex. M3 : The confession letter of WW1 dt. 29-6-95

Ex. M4 : Copy of inspection report of MW2 of Begumbazar branch of the Respondent bank dt. 13-7-95

Ex. M5 : Copy of suspension order of WW1 dt. 14-7-95

Ex. M6 : Copy of charge sheet dt. 5-9-95

Ex. M7 : Copy of corrigendum to Ex. M6 dt. 4-11-95

Ex. M8 : Copy of show cause memo No. RO/PRS/86/3538 dt. 10-12-96

Ex. M9 : Copy of Ir. to M/s Mini Gas Agencies by MW2 dt. 12-10-95

Ex. M10 : Reply to Ex. M9 Dt. 13-10-95

Ex. M11 : Copy enquiry proceedings dt. 18-5-96

Ex. M12 : Copy of orders No. HRO:PRS:DAD:96-97/750 dt. 28-5-96

Ex. M13 : Copy of orders No. HRO:PRS:DAD:96-97/751 dt. 28-5-96

Ex. M14 : Copy of WW1's representation dt. 13-7-96

Ex. M15 : Copy of Ir. No. ZO:PRSDAW:96-97:1863 dt. 22-10-96

Ex. M16 : Copy of list of documents produced in the enquiry dt. 9-1-96

Ex. M17 : P&L Voucher dt. 16-12-94

Ex. M18 : P&L Voucher dt. 5-1-95

Ex. M19 : P&L Voucher dt. 30-1-95

Ex. M20 : P&L Voucher dt. 20-2-95

Ex. M21 : P&L Voucher dt. 25-2-95

Ex. M22 : P&L Voucher dt. 31-3-95

Ex. M23 : P&L Voucher dt. 5-5-95

Ex. M24 : P&L Voucher dt. 25-5-95

Ex. M25 : P&L Voucher dt. 20-3-95

Ex. M26 : P&L Voucher dt. 13-4-95

Ex. M27 : P&L Voucher dt. 21-4-95

Ex. M28 : P&L Voucher dt. 7-3-95

Ex. M29 : P&L Voucher dt. 16-3-95

Ex. M30 : P&L Voucher dt. 13-5-94

Ex. M31 : P&L Voucher dt. 4-1-95

Ex. M32 : P&L Voucher dt. 5-1-95

Ex. M33 : P&L Voucher dt. 17-1-95

Ex. M34 : P&L Voucher dt. 21-10-95

Ex. M35 : P&L Voucher dt. 23-5-95

Ex. M36 : P&L Voucher dt. 2-2-95

Ex. M37 : P&L Voucher dt. 16-2-95

Ex. M38 : P&L Voucher dt. 1-3-95

Ex.M39 : P&L Voucher dt. 25-3-95

Ex. M40 : P&L Voucher dt. 29-3-95

Ex. M41 : P&L Voucher dt. 31-3-95

Ex. M42 : P&L Voucher dt. 19-4-95

Ex. M43 : P&L Voucher dt. 2-5-95

Ex. M44 : P&L Voucher dt. 31-5-95

Ex. M45 : P&L Voucher dt. 10-8-94

Ex. M46 : P&L Voucher dt. 31-8-94

Ex. M47 : P&L Voucher dt. 17-9-94

Ex. M48 : P&L Voucher dt. 11-7-94

Ex. M49 : P&L Voucher for Rs. 100

Ex. M50 : P&L Voucher dt. 14-11-94

नई दिल्ली, 6 अगस्त, 2004

का.आ. 2209.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाईटेड बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय नं.-2, नई दिल्ली के पंचाट (संदर्भ संख्या 34/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-8-2004 को प्राप्त हुआ था।

[सं. एल.-12012/405/92-आई. आर. (बी. II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 6th August, 2004

S.O. 2209.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/93) of the Central Government Industrial-Tribunal-cum-Labour Court, No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of United Bank of India and their workman, which was received by the Central Government on 4-8-2004.

[No. L-12012/405/92-IR (B-II)]

C. GANGADHRAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II

Presiding Officer : R. N. Rai. I. D. No. 34/93

In the matter of :—
Narender Singh

Versus

Management of United Bank of India

AWARD

The Ministry of Labour by its letter No. L-12012/405/92/IR (B-II) Central Government Dt. 20-3-1993 has referred the following point for adjudication.

The point runs as hereunder :—

> "Whether the Assistant General Manager and the Disciplinary Authority, United Bank of India was justified in dismissing Shri Narinder Singh, Clerk. Asaf Ali Road Branch with effect from 31-3-1990 ? If not, what relief the workman is entitled to ?"

The claimant has filed statement of claim. In the statement of claim, it has been stated that he was appointed as a Clerk in the United Bank of India at Delhi in December, 1970. He was posted at Asaf Ali Road, New Delhi Branch of the Bank in the year 1987. The Chief Manager of the said Branch served upon him a letter dt. 2-9-1987 requiring the workmen to deposit a sum of Rs. 2,800 on account of an alleged shortage in two packets of Rs. 100 and to submit his explanation as to why he had not immediately informed the bank about the said alleged shortage on 27-8-1987. This was followed by a reminder dated 25-09-1987. The workman submitted his reply to the above two letters on 3-10-1987. Thereafter on 17-11-1987, the Chief Officer, Vigilance Department issued a letter to the workman on the same lines. The workman submitted a detailed letter dt. 30-12-1987 in reply to the above letter dt. 17-11-1987. In the meanwhile, the Chief Manager, Asaf Ali Road Branch had issued two more letters dated 20-11-1987 and 27-11-1987 insisting on the workman to deposit sum of Rs. 2800 towards the alleged cash shortage, to which the workman had submitted a reply dt. 19-12-1987. The workman had received yet another letter dt. 16-12-1987 from Chief Officer, Vigilance at Head Office, containing similar instructions and with the rider that if the workman did not deposit the sum of Rs. 2800 as directed, the matter would be dealt with seriously.

That ultimately a charge-sheet dt. 18/21-3-1988 was issued to the workman by Dy. Chief Officer, Disciplinary Division at Head Office of the Bank, as Disciplinary Authority. The workman submitted his reply dt. 12-4-1988 to the above charge sheet. The above reply of the said workman was however, rejected by a letter of the said Dy. Chief Officer dt. 26-5-1988, who appointed one Shri Dilip Kumar Roy, Deputy Regional Manager, North India Region, New Delhi as the E.O. to hold an inquiry against the workman into the above charge-sheet. The workman sent a reply. However, his reply was found unsatisfactory. The Bank replaced Shri Dilip Kumar Roy by one Shri Dilip Kumar Sarkar as E.O. who too was replaced by one Shri Sudhinshu Roy by an order dt. 4/5-8-88.

That Shri Sudhinshu Roy commenced the enquiry against the workman on 14-9-1988. Further inquiry proceedings took place on several dates. At the conclusion of the enquiry, the workman was given a personal hearing and after personal hearing, he was dismissed from service. The Union approached the bank but to no effect. The enquiry is assailed on the following grounds :—

Deputy Chief Officer of the Personal Deptt. at Head Office was the designated/prescribed Disciplinary Authority, but in the present case, since the initial show cause letter dt. 2-9-1987 had been issued by higher authorities. Hence the charge sheet dt. 21-3-1988 and order dt. 26-5-1988 were without proper jurisdiction, hence invlaid, thus all the subsequent inquiry proceedings and orders being rendered invalid.

The Dy. Chief Officer concerned, while rejecting his explanation did not adduce any reason for the same. His

explanation was found unsatisfactorily. Explanation was called from several persons. Chief Manager, the Chief Vigilance Officer, the Branch Manager, whereas he had already sent explanation to the previous letters. As such the enquiry is vitiated. The Deputy Chief Officer Law was appointed Enquiry Officer. He was higher in rank than the Deputy Chief Officer. Therefore, the appointment of enquiry officer was bad in law. There was no allegation in the letter that he has misappropriated that amount. Only shortage of Rs. 2800 was mentioned hence the charge sheet was nothing but a trumped up one, which was coined up as an afterthought to falsely implicate the workman, which vitiated the entire disciplinary proceedings and the action taken pursuant to such charge sheet. The Regional Manager Shri Ashok Banerjee who had conducted the preliminary investigations was also not examined. Chief Vigilance Officer D. K. Basu and Shri N. K. Anand, Head Cashier were also not examined. The cash peon who had stitched the cash packets on 27-8-1987 was not examined. As such these five material witnesses in this case were not examined. The workman was charge sheeted on the basis of preliminary investigations and on the report of the Chief Manager but the material witnesses were not examined. Correspondence exchanged between the bank and the RBI and it has been written by the RBI that no complaint of shortage in cash paid to a party should be entertained from the party after the party leaves the Bank's cash counter after taking the payment. The Bank's rules and Procedure regarding the accounting for shortages in cash, which were not produced by management inspite of directions of the Enquiry Officer to the management. Shri N. K. Anand, Chief Cashier received the two packets. It was his duty to count the notes but he did not count the notes and so there may be shortage on account of the Head Cashier and on account of the peon who stitched the packets but they were not examined during the enquiry proceedings and no explanation was called from them. The past record of the workman is quite satisfactory. There was no evidence on record to hold the workman applicant guilty. The Appellate Authority also did not consider the arguments advanced by the workman and his appeal was rejected summarily.

The Management has filed written statement. In the written statement, it has been stated that there was a financial loss to the bank on account of fraudulent activities of a cash clerk. As such, he cannot be exonerated from his responsibility. The competent authority can appoint Enquiry Officer and E.O. may be subsequently changed. The enquiry is not vitiated on that ground. The Disciplinary Authority was in the rank of Asstt. General Manager, the Appellate Authority and Officer in the level of Dy. General Manager and not the General Manager so the Appellate Authority was a competent authority and personal hearing was given to the workman. The issuance of several letters calling for explanation are not bad in law. Every officer wanted to get him satisfied as to why there was shortage of Rs. 2800. As such, the charge sheet was properly issued and the explanation of the workman was not found satisfactory. There was no pre-judgement of the guilt. After proper enquiry, the workman was found guilty. All the papers were provided to the workman. He was given sufficient opportunity. He was properly heard by the E.O. After hearing the defence shortage in two packets was due to the misappropriation of the amount of Rs. 2800/-. The E.O. was not certain regarding the tampering of one packet but he was of the considered view that the other packet was quite intact and both the packets bore the signatures of the CSE and Rubber stamp. Evidence has been led by the management as well as the workman to prove or disprove the enquiry. Hence, there is no question of deciding the preliminary issue regarding the enquiry as both the parties have given evidence to prove or to disprove the findings of the enquiry officer.

Heard arguments from both the sides and perused the papers on the record. It is essential to give a brief resume of the facts that constitute a shortage of Rs. 2800. The workman on 27-08-1987 had received cash totalling Rs. 11,30,567.45 Ps. against 32 vouchers and he handed over Rs. 10,91,500/- to Shri N. K. Anand, Head Cashier of the branch and Rs. 5460 to Shri S.K. Goel who was a paying cashier of the Branch. Thus, he had handed over Rs. 10,96,960 to Shri N. K. Anand, head Cashier. In the aforesaid cash account, there were two packets of Rs. 100 denomination notes. The customer Shri Chaturvedi withdrew Rs. 2,16,400/- on 02-09-1987. Shri Chaturvedi withdrew the cash of Rs. 26,400/- and this amount included the packets of Rs. 100 notes. In it, there were two packets of Rs. 100 denomination which were handed over to Shri Chaturvedi. It was subsequently found that the said two packets contained shortage of 15 pieces of 100 notes in one packet and 13 pieces of Rs. 100 notes in another packet. As such, there was total shortage of Rs. 2800/- rupees. On complaint, two packets were checked by Shri J. B. Shah, Chief Manager, D.K. Basu, Acting Dy. Manager, Shri N. K. Anand, Head Cashier as well as by the workman and shortage as mentioned above was found in the two packets. These packets were found intact and untampered and these packets both the signatures of CSE on the head of the packets. In view of the shortage, the CSE was charge sheeted.

It was submitted from the side of the workman that material witnesses have not been examined. Persons who counted the packets of the SBI have not been examined. The workman was not given sufficient opportunity to defend himself. Principles of natural justice have not been followed. The customer who complained had left the premises and according to RBI rules, a customer who leaves the premises after receiving the cash cannot complain against the shortage of cash. There is no mention of misappropriation by the charge sheeted employee. I have gone through the entire proceedings. It was submitted by

the management that a report has been obtained from the officials of the State Bank of India that when Shri Chaturvedi presented the entire cash for purchasing the bonds, the packets were counted and in two packets of Rs. 100/- denomination, shortage of Rs. 2800/- was found. Thus, the officers of the SBI have given instantaneous report regarding the shortage. Shri S.K. Chaturvedi after receiving the amount rushed to the SBI for depositing the amount for purchasing bonds but when shortage in two packets were reported, he came straight to the United Bank of India premises and he complained of the shortage and gave the two packets to the Chief Officer intact. Four persons including Shri J.B. Shah, Chief Manager and Shri D.K. Basu, acting Deputy Manager, Shri N.K. Anand, Head Cashier and the CSE counted those two packets and a shortage of Rs. 2800/- was found. It was the report of these four persons that both the packets were intact and the signature of CSE was found on the slip and rubber stamp was also found over the packets. Hence there is no question of tampering of the packets by Shri Chaturvedi or by the officials of the SBI who counted the packets. Had there been any tampering in both the packets, there would have been presumption that somebody in the mean time tampered the packets and took out the notes but since packets were found intact, untampered and properly sealed it was the duty of the CSE to explain how there was shortage of Rs. 2800/-. It was submitted from the side of the workman that the peon who stitched the packets would have taken out the notes. The packets are always sealed and stitched in the presence of the cash clerk and if there is any shortage in untampered and intact packets, the responsibility goes to the employee who prepares for stitching and sealing and thereafter he puts his signatures. In the instant case, during the enquiry, the packets were produced. One packet was found completely intact and untampered. Regarding the other packet, the E.O. was not certain but the witnesses found both the packets intact. As such, while preparing the packets, none else but the CSE prepared one packet short of 15 notes and other packet short of 13 notes and he gave it to the peon for stitching. It was submitted from the side of the management that domestic enquiry is not necessary in view of the pronouncements of the judgement of Hon'ble High Court and the hon'ble Apex Court if 4 officers count the intact packets and in the presence of the CSE and find shortage of Rs. 2800/-. Principles of natural justice has been followed and full opportunity has been given to the CSE for cross-examination of the witnesses and after the full fledged enquiry, the enquiry officer has found CSE guilty of shortage of Rs. 2800/. In the circumstances, the shortage was noticed by the Chief Manager, Deputy Chief Manager, Head Cashier and the CSE himself and the two packets were counted before the CSE and shortage was found. Shri Chaturvedi killed no time in reporting with the Bank officials that there was shortage of Rs. 2800/- in two packets and he rushed the same day to the branch office of the said bank and it was brought to the notice of the Chief Manager, Acting Deputy Manager, Head Cashier and the CSE. As such, there is no question of misappropriation by the customer. The customer has reported promptly with the intact packets even if he had left the premises, he had come at once within a very short time with the packets intact, untampered.

I am of the considered view that the finding of the Enquiry Officer is quite correct and the same is not liable to be set aside. The Appellate Authority has also found on reasonable grounds the CSE guilty of misappropriation of Rs. 2800. No interference is called for and the enquiry is found quite correct and the findings of the E.O. are based on the evidence on the record. The enquiry is fair and it cannot be set aside.

The reference is replied thus :—

The Assistant General Manager and the Disciplinary Authority, United Bank of India was justified in dismissing Shri Narinder Singh, Clerk, Asaf Ali Road Branch with effect from 31-3-1990. The workman is not entitled to any relief as prayed for.

The award is given accordingly.

Dt. 30-7-2004

R.N. RAI, Presiding Officer.

नई दिल्ली, 6 अगस्त, 2004

का.आ. 2210.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-2, नई दिल्ली के पंचाट (संदर्भ संख्या 110/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-8-2004 को प्राप्त हुआ था।

[सं. एल.-12012/11/95-आई. आर. (बी. II)]

सी. गंगाधारण, अवर सचिव

New Delhi, the 6th August, 2004

S.O. 2210.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 110/96) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 4-8-2004.

[No. L-12012/11/95-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II NEW DELHI

I. D. No. 110/96

R. N. Rai. : Presiding Officer :

In the matter of :—
Sh. D.S. Bhatti

Versus

Canara Bank

AWARD

The Ministry of Labour by its letter No. L-12012/11/95/IR (B-2) Central Government dt. 29-06-1995 has referred the following point for adjudication.

The point runs as hereunder :—

> "Whether the action of the management of the Canara Bank, Lucknow in awarding the following punishments to Sh. D.S. Bhatti, Clerk is legal and justified? Stoppage of one increment without cumulative effect vide orders dt. 30-12-92. Stoppage of two increments without cumulative effect vide orders dt. 05-6-93. If not, what relief the said workman is entitled to ?"

Sh. O.P. Sharma Distt. Secy. U.P. Bank employees union Bulandshahr unit has filed Statement of claim on behalf of the workman. It has been stated in the statement of claim that Sh. D.S. Bhatti, clerk, Canara Bank, Bulandshahr, who is a member of this union, is totally unable to walk and moves in a wheel chair. His output is very good, but due to the vindictiveness of the management, he has been harrassed since long and the work and conduct is not reported to as it stood. This vindictiveness had gone to the extent that the branch entrance was narrowed to restrict the entry of the wheel chair into it, the use of which is indispensable for Mr. Bhatti. That the workman had protested against this from time to time, and the branch Manager Mr. S. Ramji, behaved riotiously with him on 14-2-91, by intending to beat Sh. D.S. Bhatti, against which Sh. Bhatti prayed for safety and protection. That the Manager Mr. S. Ramji started threatening Sh. Bhatti by issuing letters and notices of loss of salary although he had worked full day. The workman was left with nothing but to bring these on record. That on 29-4-91 the Deputy General Manager, circle office Lucknow charged the workman Sh. S.D. Bhatti of misbehaving with the manager on 14-2-91 and subsequently charge sheeted on 11-10-91 for which Sh. V.K. Garg was appointed as enquiry officer. The enquiry officer was not fair and just and he manipulated conclusion of enquiry proceedings without allowing opportunity of defence. The workman's representative was also coerced to do what the enquiry officer wanted. The workman Sh. Bhatti took no time to request the enquiry officer to reopen the enquiry proceedings and allow him opportunity of defence.

Meanwhile, the Manager Sh. S. Ramji had acted against the interest of the bank, the matter was brought to the knowledge of the divisional manager Meerut which annoyed him and seeing the exposure of the Manager Sh. Ramji and the fabrication and falsehood in the proceedings, the enquiry officer reopened the enquiry to suspend the workman concerned pending enquiry. That the suspension just like the charge sheet itself was vindictive and resorted to cow down the workman concerned to bear the vindictiveness with a shut down tongue and tied hands and persisting in the same trend one more charge sheet dt. 10-6-92 was served on Sh. S.D. Bhatti alleging some objectionable behaviour during enquiry on 6-4-92 for which Sh. A.K. Sahgal was appointed as enquiry officer.

That the workman concerned having lost confidence in the impartiality of the enquiry officer represented to the Deputy General Manager for change of the enquiry officer and permission to be represented by a lawyer or outsider but the same was not allowed without reason. Then the workman concerned had signed the proceedings under protest. That Mr. V.K. Garg was replaced by Mr. Usman as enquiring officer who conducted the enquiry on 18-9-92 who tried to appease. The Deputy General Manager gave his report on the matter without recording the conclusion of the enquiry in the proceedings concerned and the Disciplinary authority himself imposed the same punishment without recording the statement of the workman concerned during his hearing.

That the enquiry by Mr. A.K. Sahgal into the chargesheet dt. 10-6-92 was characterised with the same tactics as the earlier one followed by the same attitude by the Disciplinary authority. The D.G.M. Lucknow circle office deprived the workman concerned from justice knowingly. That the proceedings of the whole enquiry are against the principles of natural justice and the punishments imposed are illegal and unjustified on the following grounds among others—

(1) Because the report by the Manager Mr. S. Ramji was made after thought contradicting the earlier correspondence by him.

(2) Becasue the workman concerned is physically unfit to do any harm or threaten anybody.

(3) Because the workman concerned was physically tortured to the extent of disallowing the use of wheel-chair and making out a case by that against him.

(4) Because the workman concerned was not allowed Defence by a lawyer without reason.

(5) Because the enquiry officer were not fair and themselves indulged in manipulating the conclusion, tampering and changing the enquiry procedings and excluding the Defence from consideration followed by the disciplinary authority who refused to entertain anything against them.

(6) Because the right of Defence was snatched away by the employers from the workman concerned, as provided in the service code.

(7) Because no enquiry took place except manipulating admission on the part of the workman concerned and on refusal to do so, by suspending and charge sheeting the workman concerned.

(8) Because there exist no grounds to serve neither of the charge sheets on the workman concerned.

(9) Because there is serious legal lacuna with enquiry.

That the workman concerned having lost confidence in the working of union leaders. Mr. Y.K. Gupta & Mr. V.K. Singh had requested the U.P. Bank Employees Union whose Canara Bank Employees Union is a unit, to espouse his cause and they did so and the same was converted into an industrial dispute and the Central Government referred the matter under reference of the Industrial Dispute Act, 1947 for adjudication to this learned court. That the punishment awarded is illegal and vindictive and the management has resorted to the unfair labour practice. The union prays as follows on behalf of the workman :—

That the reference be answered in favour of the workman concerned and against the management. That the period of suspension be converted into the period spent on duty and be considered so for every purpose and the suspension be declared illegal and unjustified. That the losses caused by the punishment be recovered and exemplary costs be awarded.

The management/respondent has filed WS. In the WS it has been stated that the statement of claim filed on behalf of the workman is vague and ambiguous and without any basis the allegations have been made, as such it is not maintainable. That the domestic enquiry was conducted complying with all the principles of natural justice and the concerned workman was given full opportunity for defence and hearing. The workman was defended by D.R. of his choice, he was given full opportunity of producing evidence on his behalf and to corss examine all the management witnesses as such the statement of claim is not maintainable. That, Sh. D.S. Bhatti was working as a clerk in the Canara Bank, Bulandshahr branch since 2-11-87, on 14-2-91 when he was leaving the office early, the branch manager enquired about his early going then he misbehaved with the manager and uttered unparliamentary words against the Manager.

For the above misconduct, he was issued chargesheet dt. 11-10-91 a copy of the charge sheet dt. 11-10-91 is enclosed as annexure-I to this WS.

In the above chargesheet, Sh. V.K. Garg, Manager was appointed as an enquiry officer to conduct the enquiry. During the course of enquiry on 9-1-92 at Bulandshahr branch Sh. D.S. Bhatti has admitted the charges levelled against him in presence of his defence representative Sh. Y.K. Gupta, Secy., CBEU (U.P. State), Sh. D.S. Bhatti has also signed the above enquiry proceedings alongwith his D.R. and the defence has received the copy of the above enquiry proceedings also. The enquiry proceedings at the above date was recorded by the enquiry officer in presence of Sh. S. Ramji, Manager of the branch. Copy of the above enquiry proceedings dt. 9-1-92 is enclosed as annexure-II to this WS. But subsequently, he has denied having admitted the charges. Hence, the enquiry officer has reopened the enquiry proceedings. During the course of the enquiry on 6-4-92 at Bulandshahr branch the workman has misbehaved and even threatened the enquiry officer and left the enquiry room.

Sh. D.S. Bhatti was placed under suspension for his alleged misbehaviour vide orders dated 8-4-92 and Sh. B.Md. Usman, Manager was appointed as an enquiry officer in place of Sh. V.K. Garg. After due enquiry, he was found guilty of the charges and after giving a personal hearing, the Disciplinary Authority has imposed the punishment of stoppage of one increment without cumulative effect on the employee vide order dt. 30-12-92. The workman has preferred an appeal against the orders of Disciplinary authority, which was dismissed by the appellate authority vide orders dt. 14-5-93.

Subsequently, Sh. Bhatti was issued another charge sheet dated 10-6-92 for his alleged misbehaviour with the enquiry officer Sh. V.K. Garg and for threatening him during the enquiry in respect of earlier charge sheet dated 11-10-91 as explained above. A copy of charge sheet dt. 10-6-92 is enclosed to this written statement as annexure-III Sh. A.K. Sahgal, manager was appointed as an enquiry officer. After due enquiry, the employee was found guilty of the charges levelled against him and after giving a personal hearing the disciplinary authority has imposed the punishment of "Soppage of two increments with cumulative effect" on the employee vide orders dt. 5-6-93 against which the employee vide orders dt. 5-6-93 has preferred an appeal to the appellate authority, which was dismissed by the appellate authority vide order dt. 22-12-93.

It is specifically denied that there was any vindictiveness on the part of the management against the workman concerned nor he was harassed as alleged by him. It is also denied that the entrance to the branch was narrowed down with a view to restrict the entry of the wheel chairs of the workman. It is stated that the same was done due to security reasons. In fact he was issued charge sheet dt. 11-10-91 for his misbehaviour with the manager of the branch and the charge sheet dt. 10-6-92 for this misbehaviour & threatening the enquiry officer as stated in para B of this WS. It is denied that the enquiry officer was not fair, and has manipulated the enquiry proceedings in any way or coerced the workman representative in any way as stated in para under reply..

It is stated that during the course of enquiry on 9-1-92 at Bulandshahr branch the workman concerned has admintted the charges levellled against him in presence of his D.R. Sh. Y.K. Gupta, Secy., CBEU (U.P. State). The concerned workman has also signed the enquiry proceedings dated 9-1-92 and the defence has received the copy of the enquiry proceedings also. A copy of the enquiry proceedings dt. 9-1-92 is already enclosed to this written statement for kind perusal of the Hon'ble Court. However, subsequently the applicant has denied having admitted the charges and requested to re-open the enquiry proceedings. Hence, the same were reopened by the enquiry officer.

It is denied that the enquiry proceedings were reopened by the enquiry officer to suspend the workman, as alleged. In fact the enquiry proceedings were reopened at the request of the workman only. It is denied that the suspension order was vindictive or was to cow-down the workman as alleged. It is stated that the workman was suspended for his alleged acts of misbehaviour & threatening the enquiry officer during the course of enquiry on 06-04-92. The suspension order was passed by the Disciplinary Authority after considering the gravity of misconduct on the part of workman. Subsequently the charge sheet dt. 10-06-92 was issued against the workman for the same for which he was found guilty after due enquiry and punishment of 'Stoppage of two increments with cumulative effect' was imposed *vide* order dt. 05-06-93.

It is true that the workman concerned was not allowed to be defended by a lawyer as the same is generally not permissible in domestic enquiry. However, it is stated that workman was given all the opportunity to be defended by any employee of the bank or by a representative of Regd. Trade Union of Bank employee as provided under the service regulations. In fact the workman concerned has availed the above opportunity and nominated Shri Y. K. Gupta, Secretary, Canara Bank Employees Union (U.P. State) as his D.R. which was accepted by him and the same was allowed by the enquiry officer also. It is further stated that subsequently the workman concerned has changed his D.R. and nominated Shri V. K. Singh, Union Leader as his D.R. which was also allowed by the enquiry officer. Hence, the allegations of workman concerned are baseless. Rest of the contents of para under reference are denied as false.

It is stated that enquiry officer was changed by the Disciplinary Authority at the request of workman concerned only. Since the workman concerned has unconditionally admitted the charges during the course of enquiry, on 18-9-92 before the enquiry officer in presence of his D.R., hence, recording the conclusion of enquiry in proceedings itself was not warranted. It is specifically denied that the Disciplinary Authority has imposed the punishment without regarding the statement of workman concerned as stated. In fact the Disciplinary Authority has proposed the punishment of "Stoppage of one increment without cumulative effect" and fixed on Personal Hearing on 23-11-92 at Noida Branch. The workman concerned has attended the personal hearing and expressed his regrets for the incident and requested to view the matter leniently. The desciplinary authority after considering facts and circumstances of the case, has passed the order date 30-12-92 imposing the punishment of "Stoppage of one increment without cumulative effect" which is just appropriate commensurate with the gravity of the misconduct. Hence, the contentions raised by the workman in para under reply are totally false.

It is stated that Shri A. K. Saigal was appointed as enquiry officer in respect of charge sheet date 10-6-92. The enquiry proceedings were in accordance with the principles of natural justice and the punishment imposed was justified and commensurate with the gravity of the misconduct. The workman is put to strict proof regarding his allegation against the enquiry officer. It is stated that the workman concerned is in the habit of levelling false and baseless allegations against everybody including his Defence/union representative whom, he himself had nominated as his D.R. in the departmental enquiry. It is further stated that the reference made by the Central Govternment is not justified under the law and on facts. As the departmental enquiry, was conducted in fair an proper manner complying with all the principles of natural justice and the punishment imposed on the workman concerned is just, appropriate and commensurate with the gravity of the misconduct, there exists no industrial dispute.

It is stated that the punishment imposed on the workman concerned is neither illegal nor vindictive and the management has not resorted to unfair labour means/ practice as stated. In fact the action has been taken in accordance with the provisions of the rules and regulations. That in view of what has been stated above the claim statement of workman concerned lacks basis and devoid of merits and hence the workman concerned is not entitled for any relief and the claim statement deserves to be dismissed with exemplary costs and the reference may be answered in favour of the management.

In the written statement, most of the paragraphs of the statement of claim have been denied. The paragraph regarding holding of both the enquiries have been admitted and it has been asserted that principles of natural justice has been followed and the CSE has been provided full opportunity to defend himself.

The claimant has filed rejoinder. In his rejoinder, he has denied the averments of written statement and has reiterated that the enquiry was biased. He was not given full opportunity to defend himself. Legal Practitioner was not provided. His DR was not present due to heavy work so he has himself cross-examined the witnesses. The witnesses of the bank were purchased against him as he has made several complaints against them.

Heard arguments from both the sides and perused the papers on the record. In this connection, two enquiries were set up by the management. The first enquiry is regarding the incident on 14-2-1991 allegedly at 4.55 PM. The charge sheet has been served on the basis of the incident dated 14-2-1991 and the basis of the charge is that while he was coming outside from the bank premises, the Branch Manager was entering the branch and he asked him why he was leaving the branch. According to the version of the Management, the CSE resented and said that "What senseless talk he was making". An enquiry was held regarding the incident of 14-2-1991 and the workman was punished with the stoppage of one increment without cumulative effect.

The second enquiry is regarding his insubordination. During the proceedings of the first enquiry, the workman is said to have misbehaved with the enquiry officer and he intercepted the enquiry officer and said that who he was to prevent him and he further said that let his DR come next time and he will teach the Enquiry Officer how the enquiry is conducted. He has further said to have stated that the enquiry officer is merely a steno and not enquiry officer. Regarding his this misconduct, the second enquiry was set up and in the second enquiry also, the CSE was found guilty of misconduct. Regarding his sarcastic remarks, his two increments were withheld without cumulative effect.

It was submitted from the side of the workman that he is alleged to have said "What senseless talk" to the Branch Manager but the time given was 4.55 PM and the bank hours are upto 5.00 PM so he was leaving the bank on time and there is no question of any interrogation by the Branch Manager as to why he was leaving the branch early without the permission of the supervisor. In this enquiry, two witnesses from the department were examined and he has also examined three witnesses and it has been submitted from his side that he had already written a letter on 15-2-1991 and has levelled certain allegations against the Branch Manager. As such, when he made complaints against the Branch Manger, the Branch Manager concoted story and intimated the higher authorities regarding the alleged misbehaviour of the workman applicant. The workman has produced Shri Sheesh Pal Giri. Shri Giri is his statement during the enquiry has stated that all had gone at about 4.30 PM except Mr. P.N. Gupta, Shri Raj Kumar Gupta and Shri Ramji, the Branch Manager. According to this defence witness, everyone had left the place except three persons including the workman applicant. This witness has also accepted that the Branch Manager came from attending certain meetings and when he was entering the branch, he rushed towards the workman applicant in order to beat him. The substantial question in what prompted the Branch Manager to rush towards the handicapped workman applicant. It indirectly establishes the fact that the workman applicant has uttered something which aggravated the Branch Manager and he rushed towards him to beat him but there is no evidence of beating the workman applicant. As such, from the statement of the defence witness regarding conduct of the Branch Manager, it becomes explicit that the workman applicant has said something which offended the Branch Manager and under grave provocation, he rushed towards him for beating him for keeping him silent but he prevented himself on that occasion and did not say anything to the workman applicant and according to Sheesh Pal, the Branch Manager did not misbehave with the workman applicant. He only rushed towards the workman applicant in order to beat him as he was enraged. As such from these circumstances, it is established that the workman has used the words "What senseless talk he is talking". That is why the Branch Manager was offended and he rushed towards him. So the statement of defence witness Sheesh Pal establishes the fact that the workman has uttered something which smacks of something offending to the Branch Manager.

It was submitted from the side of the workman that he was not given full proper opportunities to defend himself and a legal practitioner was not provided and Shri . V.K. Garg was prejudiced against him. Shri V. K. Garg has not given his findings as he was annoyed with the behaviour of the workman applicant and Mohd. Usman was appointed as Enquiry Officer and he had submitted his findings and he had found the guilt proved. As such the enquiry was not biased and he has been given proper hearing and the Appellate Authority also has confirmed the punishment awarded by the Disciplinary Authority. The second enquiry is regarding his misbehaviour with the enquiry officer Shri V. K. Garg and Shri A. K. Sehgal was appointed as enquiry officer. He held enquiry and Shri V. K. Garg and Branch Manager who were present during the course of first enquiry led evidence and they admitted that the workman has uttered works. However, enquiry was conducted. These sarcastic remarks have been noted down by the then enquiry officer and he has supported the sarcastic remarks made towards him during the second enquiry and it was corroborated by Shri Ramji, the then Branch Manager and after going through the evidence of these witnesses, the

enquiry officer found the guilt of the workman applicant proved and the disciplinary authority awarded punishment of withholding of two increments without cumulative effect. In the Tribunal, both the parties have adduced evidence. The management witness supports both the enquiries and MW/1 has stated that the workman has admitted his guilt. It has been noted down during the enquiry proceedings I have personally explained to you the whole matter. I am sorry for the incident and whatever has happened and the workman applicant has put his signature dated 13-11-1992. Despite his admission on his subsequent denial, the first enquiry was held and he was found guilty of misconduct. The workman applicant has examined himself in the court's proceedings and he has given a very extensive affidavit to disprove both the enquiries whereas the management witness has also given a detailed affidavit and both the witnesses have been cross-examined by each other. As such, the entire evidence has been led to prove or disprove the enquiry and no preliminary issue has been pressed. The Hon'ble Apex Court has held that the fairness of enquiry should be decided as preliminary issue and thereafter evidence will be taken but this case is pending since 1996 and both the parties have willingly adduced oral evidence in support or otherwise of the proceedings of enquiry so a fresh evidence is not required in support of the enquiry by the management and by the workman applicant. The directions of the Hon'ble Apex Court regarding preliminary issue has not been followed by the management and after adducing oral evidence, the reference is to be decided.

I have gone through the both the proceedings of enquiry. The workman has examined three witnesses but nothing can be subtracted from the evidence of those witnesses. The evidence which was recorded during the proceedings of an enquiry or during the proceedings of a court or Tribunal, that is deemed to be authentic. It is not believed that the officer conducting enquiries or the court hearing the case, will make observations by concocting certain things.

It was submitted from the side of the workman applicant that he is handicapped and he was not permitted to enter the premises with his wheel chair but explanation has been given by the bank and he was not permitted to enter the bank premises with wheel chair driven by an engine as there was no sufficient space for the same. It transpires from the letter dt. 24-2-1993 that the Deputy General Manager has directed the workman applicant that he should exercise his restraint while passing letters to the superiors. Whenever he has written letters to his superiors, he has made sarcastic remarks and there is feeling of resentment among the higher officials regarding the wordings of his letter that is why the Divisional Branch Manager asked him to exercise restraint while writing letters to the seniors. There are other letters on the record which establish that he was warned previously for not making false complaints against the officers. He has made complaint against the Branch Manager that he has sold the shutter of the premises of Canara Bank and the proceeds have been pocketed by him. This letter is purported to have been written by Shri Shyam Singh but really Shyam Singh was related to the workman and he made the complaint on his inspection. Similarly, there is a letter dt. 21-09-1992 from the Divisional Manager and in that letter, Divisional Manager has mentioned that on 08-05-1992, he has made certain observations addressed to his father Shri Shyam Singh, Advocate and he has given false information regarding the conduct of the Branch and it has been passed to his father by him but none else and he was advised by the Divisional Manager to keep himself away from such activities. The Branch Manager has not sold the shutters. It is apparent from letter dt. 2-12-1988 that the Sr. Manager has directed him to improve his work. These letters simply indicate that the relations of the workman applicant with the management is not very cordial and he has been making false complaints and he has been warned for the same. As such, it is but natural that he would not hesitate in making sarcastic remarks about any person. It is in this respect that during the proceedings of the second enquiry, he has told the E.O. that he was a steno and not E.O. and he has to write as per his instructions. These observations are certainly sarcastic and smack insubordination. The workman applicant said that there is no sarcastic remark in the statement but these statements no doubt are sarcastic and amount to miscondut on the part of the subordinate employee. The matter does not rest here.

In his written arguments, he has submitted "Presiding Officer's Order on suspension dt. 30-05-2000 he put aside the matter on the imaginary ground that this is not incidental to the reference made to the court. The Hon'ble Presiding Officer is requested to review his order dt. 30-05-2000". This observation indicates that the Presiding Officer proceeded on imaginary grounds. This remark is also sarcastic.

He has further stated in his written arguments. It is quite strange that instead of levying heavy penalty on the opposite party for contempt of court, the Presiding Officer has rejected the workman's second request dt. 16-10-2000 without assigning any reason. He should have answered the reference in the workman's favour. This remark regarding the Presiding Officer is also contemptuous as he has said that the Presiding Officer did not assign any reason while passing order on 15-12-2000. This makes it evident that a person who makes such observations regarding the Presiding Officer of a Tribunal or Court, it is quite natural that he would not hesitate in making sarcastic remarks about his superiors.

I have gone through the entire proceedings and the charges levelled against him in both the enquiries have been found proved on the basis of substantial evidence on the record and the E.O. in both the enquiries is not

biased. He cannot be provided a legal practitioner as per the provisions of Bipartite Settlement and the DR which he wanted to enagage was busy so he has cross-examined each and every witness himself. Since the findings of both the enquiries are correct, the enquiries are not liable to be set aside. However, the workman applicant is handicapped. As such, there should not be stoppage of increment with cumulative effect but his three increments should be withheld without cumulative effect.

The reference is replied thus :—

The action of the management of the Canara Bank, Lucknow in awarding the following punishments to Shri D.S. Bhatti are not completely legal and justified. The award of punishment of withholding of two increments with cumulative effect is too harsh and it is directed that the management will stop three increments without cumulative effect. The workman is entitled to get the arrears within one month from the date of publication of the award. It is further clarified that his three increments would be withhold without cumulative effect and arrears would be paid to him as stipulated above.

The award is given accordingly.

Dt. 30-07-2004 R. N. RAI, Presiding Officer

नई दिल्ली, 6 अगस्त, 2004

का.आ. 2211.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 43/00) को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-08-2004 को प्राप्त हुआ था।

[सं० एल-12011/19/2000-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 6th August, 2004

S.O. 2211.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 43/00) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 4-8-2004.

[No. L-12011/19/2000-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT "SHRAM SADAN", III MAIN, III CROSS, II PHASE, TUMKUR ROAD, YESHWANTHPUR, BANGALORE-560 022

Dated : 19th July, 2004

PRESENT:

Shri A. R. SIDDIQUI, Presiding Officer

C. R. No. 43/00

The Assistant Secretary,
Canara Bank Staff Union,
'Santrupthi' Near Adarsha
High School, Karmar Padil,
Mangalore-575 007 ....I Party

The Deputy General Manager,
Canara Bank Circle Office,
Light House Hill Road,
Mangalore - 575 001 ....II Party

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L.-12011/19/2000/IR (B-II) dated 16th June 2000 for adjudication on the following Schedule :

SCHEDULE

"Whether the action of the Dy. General Manager, Disciplinary Action Cell, Canara Bank, Circle Office, Mangalore is justified in imposing the punishment of stoppage of 4 increments with cumulative effect on Shri U. Nithyananda (57742), Sub-Staff, Canara Bank Currency Chest, Mangalore? If not, what relief the workman is entitled?"

2. The workman who is represented by the Canara Bank Staff Union by its President, challenged the enquiry proceedings, enquiry findings holding him guilty of the charges of misconduct and punishment order imposing the punishment of stoppage of 4 increments with cumulative effect passed against him. His contention was that the enquiry order against him was not warranted in the face of the explanation offered by him to the charge sheet as no charge of misconduct was made out against him in the allegations made in the charge sheet. He also contended that there was no sufficient and legal evidence before the Enquiry Officer to hold him guilty of the misconduct and that the explanation offered by him on the Enquiry Report was not at all considered by the Disciplinary Authority though he was given an opportunity of personal hearing. He contented that the reply given by him to the propos-d

punishment was also not taken into account while imposing the aforesaid punishment and the Appellate Authority also failed to appreciate his case while dismissing appeal filed him against the dismissal order. The case of the first party workman in challenging the impugned punishment order under the heading "Regarding the Perversities" is as under :—

REGARDING THE PERVERSITIES

That, the first party workman while working at Mangalore had availed loans from the Staff Welfare Fund (S.W.F) and also from Staff Provident Fund (S.P.F.) and also from the Canara Bank Staff Credit Co-operative Society Limited, Bangalore. He wanted to clear off all the loan arrears and to avail the fresh loans. Accordingly, he had remitted the entire loan arrears to the Staff Welfare Fund (SWF) and also the Staff Provident Fund (SPF) through the Second Party bank, on 2-12-1997. The first party workman also wanted to clear off the loan arrears due to the Canara Bank Staff Credit Co-operative Society Limited, Bangalore and accordingly, he had purchased the Demand Draft bearing No. 108004 dated 2-12-1997 for a sum of Rs. 5,343 favouring the Canara Bank Staff Credit Co-operative Society Limited, Bangalore. That, before dispatching the Demand Draft to the said Canara Bank Staff Credit Co-operative Society Limited, Bangalore, the first party workman enquired with them, over phone, as to whether he could get fresh loan if he clears off the entire loan immediately. He was told by them that, fresh loan cannot be considered till January, 1998, even if he clears off the entire loan liabilities. As such, the first party workman sought to cancel the said Demand Draft and to encash the same vide the letter dated 3-12-1997 at Ex. M-11, with an intention to repay the loan amount to the said Canara Bank Staff Credit Co-operative Society Limited, Bangalore, subsequently. As the first party workman had to perform "Satyanarayan Pooja Festival" on 7-12-1997, he had sought for the Festival Advance of Rs. 3,400 from the Second Party Bank vide the Application dated 05-12-1997 at Ex. M-10.

3. He contended that he had sought for the grant of Festival Advance from the Management on 5-12-1997 and as could be seen from his application at Ex. M-10 there is no mandatory requirement to clear off the other loans if any availed by the employee from the other sources *viz.* Canara Bank Staff Credit Co-operative Society Limited, Bangalore, the Staff Provident Fund (SPF) or from the Staff Welfare Fund (SWF). Therefore, the question of first party suppressing any fact in order to obtain or avail the Festival Advance never arose and in the result holding him guilty of suppression of facts or misrepresentation in getting the Festival Loan Advance does not arise. He contended that the demand draft covered by the charge sheet was not the property of the management as it is the first party who purchased the same out of his own money with an intention to send it to the Canara Bank Staff Credit Co-operative Society Limited, Bangalore to clear off the existing loan arrears and when he came to know that fresh loan cannot be granted to him till January 1998 despite the clearance of existing loan dues, he got the demand draft cancelled so as to make the payment of loan dues to the said society, subsequently. Therefore, the first party cannot be held guilty of suppression or misrepresentation of facts in getting the Demand Draft cancelled, particularly, when it was not the property of the management. Moreover, the circular dated 15-1-1997 at Ex. M-18 refers to the Over Due Loan Accounts of the employees who have availed the loan from the Bank directly by way of CAN CARD (Credit Card) facility, Housing Loan etc. It does not relate to other loans such as SPF, SWF or Co-operative Society Loan. Therefore, findings of the Enquiry Officer holding him guilty of the alleged charge of misconduct levelled in the charge sheet was bad in law and so also the resultant punishment order is illegal and liable to be set aside.

4. The Management by its Counter Statement while refuting the various averments made in the Claim Statement, at Para 3 came out with the following contentions :

"It is submitted that Mr. U. Nithyananda, the first party workman while working as a sub staff at second party's currency chest, Mangalore was issued with the charge sheet dated 28-3-1998 in respect of the following misconduct committed by him, which is set out herein in brief as follows :—

"During the year 1997 till November, the facility of Festival Advance was not extended to Sri. U. Nithyananda as he had got arrears towards SPF/SWF loans and also loan availed from Canara Bank Staff Credit Co-operative Society, Bangalore. On 2-12-1997, he expressed his intention to avail fresh loans from SPF/SWF and from said Cooperative Society by clearing his earlier dues. He has also repaid the dues of Rs. 1276.11 and Rs. 5598.46 respectively to SPF and SWF Section being the balance under the earlier loans. He has also purchased a DD for Rs. 5343 favouring the said Cooperative Society for repayment of the existing loan. Further he has requested the Senior Manager to certify the salary particulars in the loan applications for availing fresh loan with SPF/SWF/Co-operative Society. As he had expressed his desire to take the loan application personally to the above officers, the said loan applications along with branch Advices/DD (remitted by him for repaying the earlier dues) were handed over to him in good faith. On 5-12-1997, he had

submitted the application or sanction of Festival Advance and the same was considered under the impression that his loan with SWF/SPF/ Cooperative Society were cleared and that he may be sanctioned with Festival Advance as there was no other accounts to be regularized/cleared by the first party workman. On 24-12-1997, Currency Chest, Mangalore was informed by the said Cooperative Society that an amount of Rs. 4815 is due from the first party. On contacting the Light House Hill branch where the DD has been purchased, it is revealed that the DD which was handed over to the first party along with the loan applications of SPF/SWF/Cooperative Society, for taking it personally to Bangalore was got cancelled by him. This fact was not informed by the first party to Currency Chest, Mangalore while availing Festival Advance. Thus he concealed the fact of non-clearing the loan with the cooperative society while availing Festival Advance and thus availed the Festival Advance by misrepresenting Currency Chest, Mangalore. and without clearing the dues with the Cooperative Society, which otherwise, he was not eligible as per Sectional Circular No. 1/97 dated 15-1-1997 issued by Staff Section (W), Circle Office, Mangalore", that the first party has not submitted his reply/explanation to the charge sheet served on him, within the stipulated time mentioned in the charge sheet. As such the Disciplinary Authority ordered for conduct of a Domestic Enquiry by appointing Mr. Suresh M.R. as Enquiring Officer and Mr. T. Subramanya as Presenting Officer, by issuing necessary proceedings. That an enquiring notice fixing the date of hearing was issued to the first party workman and in the said notice the first party was also informed that he can engage any employee of the bank as his Defence Representative to assist him in the Domestic Enquiry. The first party received the said notice, and attended the enquiry. The first party workman engaged Mr. B.M. Madhav as his Defence Representative. The Preliminary enquiry was conducted on 5-6-1998. The list of witnesses and documents were furnished to the first party. The regular enquiry was held from 9-7-1998 to 11-7-1998, on 13-7-1998, 28-7-1998 and 11-8-1998. That on behalf of the management, 22 documents (Ex. M1 to Ex. M22) were marked as management exhibits and on behalf of the defence 5 documents are produced and the same are marked as Ex. D1 to Ex. D5. The Management examined two witnesses on their behalf and the first party himself got examined as defence witness. The defence representative was given opportunity to cross examine the Management witnesses. That day-to-day enquiry proceedings were furnished to the defence representative. That both the parties were permitted to file their respective written arguments in the enquiry. The Enquiry Officer after taking into consideration the evidence, documents marked in the enquiry and written arguments of the parties, submitted his enquiry findings holding the first party workman guilty of the misconduct alleged against him, vide his enquiry findings dated 14-10-1998. The Second Party has sent a copy of the said findings of the Enquiry Officer to the first party workman for his submissions in respect of the enquiry report. The first party workman has submitted his submissions in respect of the Enquiry Report through his defence representative. That considering the submissions of the first party workman, agreeing with the findings of the enquiring officer and other relevant records the Disciplinary Authority proposed the punishment of stoppage of 4 increments with cumulative effect and the personal hearing in the matter was given to the first party workman on 4-12-1998. Thereafter the Disciplinary Authority has passed orders dated 11-12-1998 imposing the punishment of stoppage of 4 increments with cumulative effect, on the first party workman. That aggrieved by the said orders the first party has filed Appeal dated 16-3-1999 and the said Appeal of the first party workman was dismissed by the Appellate Authority by orders dated 5-4-1999, after considering the same."

5. While giving reply to Para 10(a) to 10(m) of the Claim Statement, the management at para 10(a) of the Counter Statement, has contented as under :—

The allegations stated at para 10(a) are not tenable. It is true that Shri U. Nithyananda, while working at Currency Chest, Mangalore has availed SWF and SPF loans and also loan with Canara Bank Staff Credit Co-operative Society Limited, Bangalore and he has expressed his desire to clear the said loans, so as to avail fresh loans. Accordingly he has remitted Rs. 1276.11 and Rs. 5543 on 2-12-1997 towards repayment of his dues with Canara Bank Staff Credit Co-operative Society Limited, Bangalore. He has also requested the Senior Manager to handover the fresh loan applications along with Branch Advices and Demand Draft to him to enable him to hand over them to the concerned Section/society personally at Bangalore. Accordingly, Currency Chest, Mangalore has handed over them to him good faith. Though he has sent the SPF/SWF loan applications to respective branch advices, he has retained the DD with him, got it cancelled at Light

House Hill Branch, Mangalore and this fact was not informed to Currency Chest Mangalore. The contention of the first party that he had enquired with the said Cooperative Society as to the possibility of getting the fresh loan by clearing the existing dues etc. are far from facts. If this is true, he should have enquired with the said Society before purchasing the DD/submitting fresh application. His purchasing the DD and submitting fresh application etc. are just to make believe the Currency Chest Mangalore that he is going to close the loan with the Society. He was well aware that he will be sanctioned Festival Advance only if all his loan accounts are regularized/closed. Subsequently he submitted application for Festival Advance, the next day, got it sanctioned by concealing the fact that he has not closed the loan account with the said Cooperative Society and he has got cancelled the DD purchased by him previously. He was well aware that if he discloses these facts his application, Festival Advance will not be considered as per Sectional Circular No. 1/97 issued by Staff Section (W), Circle Office, Mangalore.

6. In the last, the Management contended that the Disciplinary action was necessary to be taken against the first party holding an enquiry as he failed to give any reply to the charge sheet on or before the time given to him.

7. It was further contended that the findings of the enquiry were based on oral and documentary evidence and therefore, the Disciplinary Authority was justified in imposing the aforesaid punishment keeping in view the facts and circumstances of the case.

8. On the basis of the aforesaid pleadings of the parties, the following Preliminary Issue was framed :—

"Whether the Domestic Enquiry conducted against the first party is fair and proper" and the management second party was called upon to lead evidence.

9. On 1-10-04, the first party filed a memo conceding the fairness of the enquiry and therefore, DE was held to be fair and proper and the matter was came to be posted for hearing on merits. After the hearing the learned counsel for the respective parties, the case is today posted for award.

10. In the light of the finding recorded by this Tribunal to the effect that DE held against the first party was fair and proper, now the next important question was whether the findings of the Enquiry Officer suffered from any perversity. Learned Counsel for the first party vehemently argued that the Application at Ex.M-10 marked in the enquiry through which the first party applied for loan never contemplated that an employee seeking Festival Advance should clear off the other loans if any availed by him from other sources much less from Canara Bank Credit Cooperative Society or from SPF or from SWF. His next contention was that the Circular Ex. No. 18 dated 15-1-1997 never referred to the loan taken by the employee from the above said society or from other sources. He contended that Festival Loan Advance could not have been given to the first party only in case he had outstanding dues of loan taken from the Second Party Bank itself. Therefore, he submitted that the DD referred to in the charge sheet which was originally obtained by the first party to clear off the dues of the said society and thereafter was cancelled when he came to know that despite the payment of existing loan dues, he will not get further loan which was not an act much less misconduct committed by the first party so as to make the allegations against him that by obtaining the DD and showing the same to the Manager, MW1, he gave an impression of clearing off the dues of the society and thereby got Festival Loan sanctioned and that thereafter he got the DD cancelled and that in doing so he suppressed the real facts in his loan application as well as made false representation to the Manager, MW1 prompting him to sanction the loan. Whereas, the learned counsel for the management supported the findings of the Enquiry Officer and contended that the oral and documentary evidence brought on record is not only sufficient and legal but also very much satisfactory to speak to the fact of charge of misconduct committed by the first party. He took the court through the detailed findings of the Enquiry Officer and so also the reasonings given by the Disciplinary Authority in upholding the findings of the Enquiry Officer while passing the punishment Order.

11. On going through the records, I find substance in the arguments advanced by the management.

12. The various contentions raised by the first party in defending the allegations made in the charge sheet have been very succinctly and threadbare dealt with by the Enquiry Officer on pages 5 to 8. Therefore, there is no need for this court once again to repeat the very same reasonings assigned by the Enquiry Officer and the evidence discussed by him in coming to the conclusion that charge of misconduct was proved against the first party. The Disciplinary Authority while passing the punishment order once again has also given cogent reasonings in upholding the findings of the Enquiry Officer and they are as under :—

"The above referred charge sheet was served on him on 11-4-98. As he has failed to reply the charge

sheet, the matter was proceeded with by appointing Shri M. R. Suresha, Officer, Establishment Cell, Circle Office, Mangalore and Shri T. Subramanya, Officer, DA Cell, Circle Office Mangalore as Enquiring Officer and Presenting Officer respectively. After conducting the enquiry the Enquiring Officer submitted his findings wherein the CSE was held guilty of charges contained in the charge sheet. On agreeing with the findings of the (E), a copy of the same has been furnished to the CSE to make his submissions if any. The submissions given by the CSE through his Defence Representative are not satisfactory and hence not acceptable. The exhibits Ex.MI, Ex. MI8 and Ex.M19 contain instructions to the Currency Chest not to sanction/recommend loans including FA when there are over dues in the loan accounts of the employee. The depositions of the MW2 are based on the documents and are corroborated by other evidences and hence are acceptable. The EO in his findings did explain as to why he relies more on the depositions of MWI than those of the CSE. The conclusions of the EO are based on evidences on record. If there were over dues to the extent of Rs. 4450/- in the SWF loan even after remitting Rs. 5598.46 on 2-12-97, then such fact was also not brought to the notice of the Currency Chest by the CSE while availing FA, apart from the fact of cancellation of DD. Though there was no monetary loss to the bank on account of actions of the CSE, the image of the bank is adversely effected in as much as the Bank received a registered notice from the Society detailing the statutory obligation on the part of the bank to effect recoveries towards liabilities of co-operative societies. I thus observe that the CSE has failed to discharge his duties with utmost honesty, devotion and diligence and his acts are prejudicial to the interest of the Bank. Hence I hold him guilty of the charges leveled against him. Considering the gravity of misconduct, the punishment of "Stoppage of four increments with cumulative effect" was proposed and personal hearing in this regard was given to him on 4-12-98. During the course of personal hearing the CSE submitted that he has already submitted his viewpoints in his earlier letters. Further he has submitted that the proposed punishment is too severe which will create much problems in his family life and requested to view the matter leniently without any financial implications. Now therefore, taking into consideration the gravity of misconduct, the submissions of the CSE, the circumstances of the case and past records of the employee, I do not find any valid reason to reduce the proposed punishment. Hence I impose the punishment of "Stoppage of Four increments with cumulative effect" as envisaged under Chapter XI Regulation 4 clause (d) of Canara Bank Service Code".

13. Therefore, on going through the findings of the Enquiry Officer so also finding given by the Disciplinary Authority, it will be too much for the first party now to contend that there was no sufficient, legal and satisfactory evidence to substantiate the charge of misconduct leveled against him. The findings of the Enquiry Officer are very much based on oral and documentary evidence and he has given very cogent and valid reasonings based on the said evidence in coming to the aforesaid conclusion.

14. In the result, in my opinion findings of the Enquiry Officer suffered from no perversity and they are not to be interfered at the hands of this Tribunal and hence it is to be held that charge of misconduct was proved against the first party.

15. Now coming to the question of punishment, it was well submitted by the learned counsel for the first party that for the misconduct of the nature in hand, the punishment order of withholding of four increments of the first party with cumulative effect was too harsh and excessive, not commensurate to the gravity of the misconduct. Learned counsel for the management however, left the matter to the discretion of this Tribunal. Therefore, keeping in view the charge of misconduct leveled against the workman, the facts and circumstances of the case and so also there being no such case of misconduct against the first party in past and further not disputing the fact that the impugned punishment would cause great hardship to the first party reducing his emoluments drastically for all the times to come, it appears to me that ends of justice will be met if punishment order is modified and replaced with the punishment order imposing the punishment of stoppage of two Annual increments for a period of three years from the date of the original punishment order.

ORDER

Reference is partly allowed. The impugned punishment Order dated 11-12-1998 is hereby modified as under;

The management shall withhold two Annual Increments of the first party for a period of three years from the date of the said punishment order.

(Dicated to PA transcribed by her corrected and signed by me on 19th July 2004)

A. R. SIDDIOUI, Presiding Officer

नई दिल्ली, 9 अगस्त, 2004

का.आ. 2212.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण महाराष्ट्र पुणे के पंचाट (संदर्भ संख्या रेफ. (आईटी) 14 ऑफ 2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-08-2004 को प्राप्त हुआ था।

[सं. एल.-12012/349/2001-आई.आर. (बी-I)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 9th August, 2004

S.O. 2212,—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. (IT) No. 14 of 2002) of the Industrial Tribunal Maharashtra, Pune now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 06-08-2004.

[No. L-12012/349/2001-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

SHRI S. M. KOLHE, INDUSTRIAL TRIBUNAL MAHARASHTRA, PUNE

REFERENCE (IT) NO. 14 OF 2002

BETWEEN:

State Bank of India, ... First Party
Pune, East Street,
Pune-411 001.

And:

State Bank of India Staff Union, ...Second Party
C/o State Bank of India,
East Street, Pune-411 001.

In the matter of : Reference for adjudication of the dispute "Whether the action of the Management of the State Bank of India, Regional Office-III, Pune, in discharging Shri S. P. Pohekar,—Assistant Cash/Accounts w.e.f. 4-8-1999, on the alleged charges of misconduct, vide charge-sheet, dated, 3-9-1998, is justified? If not, what relief the concerned employee is entitled to? (As mentioned in the Schedule to the Order of the Reference).

APPEARANCES:

Shri R. P. Shaligram, Advocate for the Second Party—workman/Union.

Shri D. V. Kulkarni, Advocate for the First Party Bank.

7th July, 2004

AWARD

1. This Reference is made for adjudication as to whether the order of discharging Shri S. P. Pohekar, i.e. the member of the Second Party, on the charge of the misconduct, on the part of the first party, is justified? and if not, to what relief, he is entitled to?

2. State Bank of India, Pune, is the First party. Second party is Recognised Union, Shri S. P. Pohekar is the member of the Union. He joined the services of the State Bank of India (hereinafter referred to as SBI) as a Messenger in the year 1967. He worked continuously from 1967 till 1999. His services were terminated as per the letter, dated 4-8-1999, by the SBI. At the time of termination of his services, his designation was Cashier-cum-Clerk.

3. On 1-9-1997, the S.B.I. had disbursed the loan of Rs. 18,600 to Shri S.P. Pohekar, for purchase of vehicle for his personnel use under the **Bank's Vehicle Loan Scheme.** Due to the demise of mother of Shri Pohekar, he gave up the idea of purchasing the vehicle, and, accordingly informed the said fact to the Dealer. The Dealer refunded the cheque of the loan amount to Shri Pohekar. He deposited the said cheque in his own Bank Account. He repaid the loan amount, along with the interest, and, accordingly closed the said loan Account by making full payment till 16-3-1998. The SBI accepted the said amount.

4. On 11-4-1998, the SBI issued a show-cause notice to Shri Pohekar and alleged that he committed serious misconduct, as per Section 521(4)(j) of Shastri Award. Reply was given to the said notice. Again, on 29-7-1998, another show-cause notice was issued to Shri Pohekar on the ground of serious misconduct, as per Section 521(4)(B) and (j) of Shastri Award. Reply was given to the said Notice also.

5. Charge-sheet, dated, 3-9-1998, was issued to Shri Pohekar, on the allegations of his gross-misconduct. Enquiry was held. It was not fair and proper. The principles of natural justice were not followed. The Rules applicable to the SBI were also not observed during the said enquiry.

6. On 16-4-1999, the Enquiry Officer gave his findings and held Shri Pohekar as guilty of the charges levelled against him. No reasons were assigned by the Enquiry Officer in giving the findings. Evidence was not properly and correctly discussed, in the said enquiry.

7. On the basis of the findings in the Enquiry, on 21-4-1999 the S.B.I. issued a show-cause notice to Shri Pohekar and asked him as to why the punishment of dismissal, from the service, without notice, should not be imposed on him. Shri Pohekar gave the reply to the said show-cause notice.

8. On 4-8-1999, the disciplinary authority issued order and discharged Shri Pohekar, from the service, without notice.

9. The punishment imposed on Shri Pohekar, was disproportionate. The alleged charge, levelled against Shri Pohekar would amount to minor misconduct and not the gross-misconduct.

10. Shri Pohekar is the only earning member of his family. Three persons, including his daughter, are dependent on him. All family members of Shri Pohekar are suffering hardship.

11. The relief of declaration is sought by Shri Pohekar, to the effect that the order of discharge from service, dated 4-8-1999, is not legal and justified. He also prayed for the relief of reinstatement with continuity of service and full back wages.

12. S.B.I. i.e. the First Party, filed its written statement at Exh. C-4. It is admitted that Shri Pohekar was in the service of the Bank as a Cashier-cum-Account, in the year 1999. It is further admitted that in the year 1997 loan of Rs. 18,600 was disbursed to Shri Pohekar, for purchase of a vehicle. It is contended that Shri Pohekar mis-utilised the loan amount, by not purchasing the vehicle. It is contended that Shri Pohekar did not inform the said fact to the Bank and suppressed the same. It is further contended that, in spite of the repeated directions, Shri Pohekar did not re-pay the loan amount, along with the interests, as per the terms and conditions. It is then contended that Shri Pohekar mis-appropriated the loan amount, by not utilising it for the purpose for which it was taken as a loan, and, Shri Pohekar, accordingly, committed the gross-misconduct.

13. It is contended that the show-cause notice was issued to Shri Pohekar and thereafter enquiry was also conducted, against him on the charge of the gross-misconduct. It is contended that the principles of natural justice were followed and fair opportunity was given to Shri Pohekar, in the said enquiry. It is contended that the charge of the gross-misconduct, was duly established against Shri Pohekar in the said enquiry, and, accordingly, the Enquiry Officer, gave such findings.

14. It is contended that opportunity of hearing was given to Shri Pohekar, on the point of quantum of punishment, and, the Disciplinary Authority, finally, discharged Shri Pohekar, from the service, after considering his hardship to himself and to his family members. It is contended that the punishment imposed on Shri Pohekar, was just and proportionate, on account of his gross misconduct in the service.

15. S.B.I. finally prayed for dismissal of the claim made by Shri Pohekar.

16. Considering the rival claims of both the sides, my Predecessor framed the following issues at Exh. 0-5.

1. Whether the departmental enquiry initiated by the First Party was fair and proper?
2. Whether the alleged misconduct on the part of employee—Shri S.P. Pohekar, was proved before the Enquiry Officer or it is proved before the Court?
3. Whether the order passed by the First Party Company in discharging the employee—Shri Pohekar in alleged charges of misconduct is justified and proportionate of the alleged misconduct?
4. What order?

17. My findings on the above issues for the reasons recorded below, are as under :—

(1) In the affirmative.

(2) In the affirmative.

(3) In the Affirmative.

(4) Demand of the second party for reinstatement with full back wages and continuity of service, is rejected.

REASONS :—

18. Issue No. 1

This issue was treated as a Preliminary Issue. After giving opportunity to both the sides and after considering the material on the record, my Predecessor has already held that the enquiry was fair and proper. In such circumstances, I answer this issue in the Affirmative.

19. Issue No. 2

After carefully perusing the record of the enquiry, as well as the evidence before me, in this proceeding, it is revealed that despite getting loan for purchase of vehicle, Shri Pohekar failed to purchase the vehicle. Moreover, Shri Pohekar failed to intimate to the Bank that he could not purchase the vehicle, in spite of disbursement of the loan amount to him. It cannot be ignored that Shri Pohekar got refund of the loan amount from the Dealer and deposited the said amount in his personal account. Shri Pohekar is in the service of the bank since the year 1967. It has come in his evidence that he had availed the facility of loan such as consumer loan, housing loan, and festival loan. It was not the first occasion of Shri Pohekar to get the loan from the Bank. Shri Pohekar ought to have deposited the refunded loan amount in the vehicle loan account and not in his personal account. There is ample evidence on the record to show that Shri Pohekar had withdrawn the said amount from time to time and mis-utilised the same, for his own purpose.

It is true that the mother of Shri Pohekar died on 5-9-1997. The vehicle loan was disbursed to him on 1-9-1997. In the ordinary course of the nature, it is quite

natural that Shri Pohekar may not purchase the vehicle, particularly on account of the death of his mother, at that time. In fact, the letter issued by Shri pohekar to the Dealer is quite evident to show that he (Shri Pohekar) did not intend to purchase the vehicle due to the death of his mother. However, Shri Pohekar, in the said letter, issued the dealer to purchase the vehicle in the next month only. Though there was justifiable reason for not purchasing the vehicle at the relevant time of account of the death of mother of Shri Pohekar, it was abandoned duty, on the part of Shri Pohekar to deposit the refunded amount in the Vehicle Loan Account. And not in his Personnel Account. Shri Pohekar had put in more than 20 years of service with the first party bank. He availed various types of loans, from the Bank during the tenure of his service. So, the act of depositing the refunded loan amount, in his personal account, clearly shows the ulterior motive of Shri Pohekar. More-over, withdrawing the said loan amount, from time to time, further shows his dishonest intention. By no stretch of imagination, it can be tolerated that such refunded amount of the loan for purchase of a vehicle, should be deposited in the personal account and the said amount should be utilised for the personal use, on the part of any staff member of the Bank.

The advance for purchase of vehicle is welfare activity of the Bank. It cannot be ignored that such facility is available only to the staff members of the Bank and that too, on concessional rate of interest as compared to that of the rate of interest chgarged to the public at large. When such special facility is enjoyed, particularly by the members of the staff of the Bank, it is equally mandatory to obey the Rules and the Regulations, in respect of such loan. Not to use the loan for the purpose for which it was taken, is the first mistake which can be tolerance, if justifiable reason is given. However, to utilise such amount for the personal use, or for come other purpose clearly shows dishonest intention and such act is not tolerable. It cannot be ignored that Shri Pohekar retained the loan amount of vehicle with him for the period of six months without giving any intimation in writing to the Bank. So, the entire attitude and the conduct of Shri Pohekar, during the period of six months for which the loan amount was retained by him, is dishonest and doubtful. It is a matter of record that finally and lastly, Shri Pohekar closed the loan account on 14-3-1998, after the repeated reminders, on the part of the first party Bank.

20. In the evidence, recorded in this proceeding, Shri Pohekar has admitted in clear terms that he made request to the Dealer, to cancel the purchase and to issue the cheque in his name and accordingly, he received the cheque from the Dealer and deposited the same in his Saving Bank Account, this his separate Vehicle loan account was subsisting. Shri Pohekar has further admitted in his evidence, in the clear terms that he did not inform in writing to the Bank till 14-3-1998, that he did not utilise the loan amount for the purpose of purchase of the vehicle. So, this evidence of—Shri Pohekar, recorded in this proceeding, clearly shows dishonest attitude and the conduct of Shri Pohekar in misutilising the loan amount which was disbursed to him for the purchase of the vehicle, for his own purpose.

21. In the enquiry, the charge of misconduct was levelled against Shri Pohekar, particularly, as per the provisions of Section 521 (4) (e) and (j) of the Shastri Award. 'Gross Misconduct' is defined as per the above provision as the following acts or omission on the part of the employees :—

"(e) Wilful insubordination or disobedience of lawful and reasonable order of the Management or of superior;

(j) Doing any act, prejudicial to the interest of the Bank or gross negligence or the negligence involving or likely to involve the Bank in serious loss".

By mis-utilising the vehicle loan amount, for the personal use, and by supressing the said fact for six months, from the first party Bank Authority, inspite of three repeated reminders, it can easily be said that the act of Shri Pohekar was of the nature of "Wilful disobedience of the order of the Management" and moreover, such act is definitely, prejudicial to the interests of the first party Bank.

22. In view of the above discussion, I am of the opinion that 'gross-misconduct' as contemplated in clause 521, sub-clause (4) of Shastri Award, is duly established against Shri Pohekar, as is revealed from the Departmental as well as in this proceeding. So, I answer the issue No. 2 in the affirmative.

23. Issue No. 3 :

The Disciplinary Authority of the first party Bank imposed the punishment of discharge from service without notice, to Shri Pohekar, on account of his gross misconduct. It is a matter of record that sufficient opportunity was given to Shri Pohekar before the sentence of punishment was imposed on him. Shri Pohekar was heard by the Disciplinary Authority and, thereafter, the punishment was imposed. Moreover, Shri Pohekar had also preferred the Appeal before the competent authority of the Bank against the order of punishment. However, the said appeal was dismissed by the competent authority of the first party bank and the order of discharge from the service, without notice, in respect of Shri Pohekar, was maintained.

24. Learned Advocate for Shri Pohekar strongly submitted that Shri Pohekar had put in considerable length of service—for more than 25 years, in the Bank and he was the only earning member of his family and he should not have been discharged from the service on account of his alleged misconduct. The learned advocate for Shri Pohekar referred to Clause 521(5) of Shastri Award. Which

speaks about different punishments, prescribed once the charge of gross misconduct is proved. According to him the Disciplinary Authority of the bank should have awarded lessor punishment, such as warning or adverse remark or fine or without holding the increment.

25. On the other hand, the learned Advocate for the bank vehemently argued that the action of termination of services of Shri Pohekar is proportionate, and just punishment, on account of his gross misconduct. The learned advocate for the Bank further argued that misutilisation of the vehicle loan, for the personal purpose, with the dishonest intention on the part of the experienced staff member of the Bank cannot be tolerated by awarding lessor punishment. According to him, it would have affected the entire administration of the Bank. He pointed out that the Bank Authority had lost confidence in Shri Pohekar, on account of his dishonest behavior, by using the loan amount, for his own purpose, without giving the intimation to that effect, to the Bank.

In the present matter, the charge of gross misconduct is connected with the transaction of the loan amount. Shri Pohekar availed the facility of vehicle loan and got the amount for the same. Shri Pohekar did not purchase the vehicle and got the refund of the loan amount from the Dealer and deposited the said amount in his own Bank account and withdraw the said amount, from time to time, and misutilised the same, for his own purpose. Shri Pohekar did not inform to the Bank for the period of six months that he did not purchase the vehicle and he did use the said amount for his personal purpose. So, the dishonest intention of Shri Pohekar is quite visible in his entire conduct and attitude. The trust is the most important aspect, as far as the Bank employees are concerned. It is the bounded duty of the bank employee to see that the confidence posed in him should not be lost or disturbed for any reason. Once the dishonest intention is created in the mind of bank authority and the misutilisation of the money had taken place in furtherance of such dishonest intention, such misconduct is of grave nature and it cannot be tolerance in any event once such delinquent is a member of the staff of the Bank. Once the bank employee acts in a manner to disturb the trust or faith, it is not justifiable for him to continue in such service of the Bank.

26. In view of the above discussion, I am of the opinion that Shri Pohekar is not dealt-with the punishment of dismissal, without notice, but the lessor punishment of discharge without notice is awarded to him. There cannot be any more lessor punishment for Shri Pohekar, on account of his misconduct which has something to do with the integrity and dishonesty.

27. Considering the above discussion, I am of the opinion that the punishment imposed to Shri Pohekar, is not disproportionate, in view of the gross misconduct. Thus, it is not necessary to exercise any power, as contemplated under Section 11A of the Industrial Disputes Act, 1947, to commute or modify the order of sentence or the punishment. So, I answer this issue in the affimative.

28. In the result, the Reference deserves to be disposed, So, I proceed to pass the following Award.

AWARD

(i) The demand of the second party for reinstatement with full back wages and continuity of service is rejected, as it is not substantiated and proved.

(ii) The Reference is answered, accordingly.

(iii) Award be prepared, accordingly.

S. M. KOLHE, Industrial Tribunal, Pune

7th July, 2004.

नई दिल्ली, 9 अगस्त, 2004

का.आ. 2213.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सोलापुर ग्रामीण बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, सोलापुर के पंचाट [संदर्भ संख्या (आईटी)2/2001] को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-08-2004 को प्राप्त हुआ था।

[सं० एल-12011/12/2001-आई.आर. (बी-I)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 9th August, 2004

S.O. 2213.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award [Ref. (IT) No. 2/2001] of the Central Government Industrial Tribunal Solapur now as shown in the Annexure in the Industrial Dispute between the employers in relation to management of Solapur Gramin Bank and their workman, which was received by the Central Government on 06-08-2004.

[No. L-12011/12/2001-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI S. G. KADAM, MEMBER, INDUSTRIAL TRIBUNAL SOLAPUR

REFERENCE (IT) NO. 2/2001

DISPUTE BETWEEN:

The President, ... First Party
Solapur Gramin Bank Staff Union,
C/o. Solapur Gramin Bank,
6, Murarji Peth, Solapur.

And

The Chairman .....Second Party
Solapur Gramin Bank,
6, Murarji Peth, Solapur.

Corum : Shri S. G. Kadam, Member, Industrial Tribunal

APPEARANCE : Shri R. G. Mhetras, Advocate for the Ist Party.

Shri S. B. Inamdar, Advocate for the IInd Party.

AWARD

(Dictated in open Court)

5-3-2004

The Assistant Labour Commissioner of (Central), Pune in exercise of the powers conferred on it by Sub-section (1) and 2(A) of Section 10 of the Industrial Disputes Act 1947 of the Central Government referred the disputes between above named parties for the adjudication of the demand of First party that the temporary employees engaged in place of regular full time messenger are entitled for prorate wages accordingly to the circular No. 9/122 dated 20-4-92 is justified? If yes, what relief the concerned workman named in the list are entitled?

2. The First party filed this application Exh. C-8 & Exh. C-9 with request to permit to withdraw the Reference accordingly order passed and Reference (I.T.) 2/2001 is adjudicated for want of prosecution. Hence the award.

AWARD

(i) The Reference is hereby disposed off in view of order passed at C-8 and C-9.

S. G. KADAM, Member.

Place : Solapur

Dated : 5-3-2004.

नई दिल्ली, 11 अगस्त, 2004

का.आ. 2214.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, भारतीय पुरातत्व विभाग प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ (संदर्भ संख्या 164/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2004 को प्राप्त हुआ था।

[सं० एल.-42012/79/2002-आई.आर. (सी एम-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 11th August, 2004

S.O. 2214.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 164/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of Archaeological Survey of India, Agra Division and their workman, received by the Central Government on 10-8-2004.

[No. L-42012/79/2002-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT:

SHRI SHUKLA, Presiding Officer

I.D. No. 164/2002

Ref. No. L-42012/79/2002/IR (CM-II) dated : 5-11-2002

BETWEEN:

Shri Raj S/o Sh. Ram Lal,
R/o 17/92, Billopura,
Tajganj, Agra.

AND

The Superintending Archaeologist,
Archaeological Survey of India,
Agra Division, 22, Mall Road,
Agra (U.P.)-282001.

AWARD

The Government of India, Ministry of Labour vide their order No. L-42012/79/2002/IR CM-II) dated : 5-11-2002 has referred following issue to the Presiding Officer, Central Government industrial Tribunal cum Labour Court, Lucknow for adjudication.

"तथा अधीक्षण पुरातत्वविद भारतीय सर्वेक्षण आगरा द्वारा कर्मकार श्री राजू आलास श्री रामलाल को दिनांक 5-5-2001 से सेवा से निष्काषित करना न्यायोचित है ? यदि नहीं तो संबंधित कर्मकार किस अनुतोष का हकदार है ? "

The worker's case in brief is that he was engaged as daily wager in group 'D' from August 1, 1997 under Archaeological Survey of India, but he was terminated from service w.e.f. 5th May, 2001. It is also alleged that during his service period he worked for more than 240 days every year. It is also alleged that the employers did not observe the provisions under Section 25-F, 25-H and 25-G of the Industrial Disputes Act, 1947.

The opposite party has filed the written statement and has denied the claim of the workman. On behalf of employers it has been contended that Archaeological Survey of India is department, of the Government of India and its work is soveriegn function of the Government governed by various Acts. It has to work as per instructions, orders and guidelines issued by government, from time to time. the appointment on any post is to be filled through Employment Exchange only. If any post falls vacant in the department, it is notified to the Employment

Exchange and the names of eligible candidate are called from the employment exchange specifying the criteria. After the names are received from the employment exchange interview is held and selected candidates is issued appointment letter. The workman, Raju has never issued any appointment letter for any post as such he is not a bonafied employee of the department as such he is not entitled to any post. There was never any employer-employee relationship between the workman and the opposite party as such, the Tribunal has no jurisdiction to hear and decide the reference. The Department of Personnel and Training, Government of India framed a scheme called 'Casual Labourers Scheme for Grant of temporary Status and Regularisation 1993.' The scheme envisages that those who fulfilled the criteria specified by the said scheme can only be conferred upon such temporary status. No other casual labour have been granted such status after 1993, as the said scheme was one time scheme and is not applicable to the casual labour engaged after September, 1993. The works done by Sh. Raju are as follows :

1. From 1-8-97 to 31-10-97 under CA, Itimad-ud-Daula	78 days
2. From 30-6-99 to 26-6-99 under CA, Agra Fort	72 days
3. From 14-10-2000 to 26-3-2001 under CA, Agra Fort	70 days
4. From 21-8-2000 to 26-3-2001 under CA, Agra Fort	163.5 days

It is alleged that workman, Raju was engaged for purely casual nature of specific work for specific fixed period and as soon as the specific item of work was completed he was disengaged from work. It has been alleged by the opposite party the Industrial Disputes Act, 1947 is not applicable in the department yet Section 25F of the Act is not attracted in this case since the workman has never worked for more than 240 days in a year. It is not retrenchment in view of Section 2(00)(bb) of the Industrial Disputes Act. It is also submitted that the workman has been paid all his dues both the period of his casual nature of work done and nothing is outstanding in his name with the opposite party has not violated any provision of law.

The workman has examined himself and closed the evidence.

Shri Amar Nath Gupta, Conservation Assistant of the employer has been examined and the employer has closed the evidence.

The employer has filed photo state copy of payment register, which prepared on the basis of muster roll from period 1-8-97 to 4-5-2001. Muster Roll has not being filed on the ground that Muster Roll is deposited in the Pay & Accounts Office of Director General Archaeological Survey of India, New Delhi.

Heard learned representatives of the parties and perused the evidence on record.

The dispute referred for adjudication is 'whether the action of the Superintending Archaeologist, Archaeological Survey of India in terminating the services of Sh. Raju S/o Shri Ram Lal w.e.f. 5-5-2001 is legal.'

The workman in the circumstances has to prove that he has been engaged as daily wages till 4-5-2001.

The workman has admitted that he worked for the period as follows :

1. August, 1997	27 days
2. September, 1997	26 days
3. 7-7-99 to 13-7-99	6 days
4. 14-7-99 to 20-7-99	6 days
5. 21-7-99 to 27-7-99	6 days
6. 28-8-99 to 3-9-99	6 days
7. 4-8-99 to 10-8-99	6 days
8. 11-8-99 to 17-8-99	6 days
9. 18-8-99 to 24-8-99	6 days
10. 25-8-99 to 31-8-99	6 days
11. 1-9-99 tc 7-9-99	6 days
12. 9-9-99 to 15-9-99	6 days
13. 20-9-99 to 26-9-99	6 days
14. 14-10-99 to 20-10-99	6 days
15. 21-10-99 to 27-10-99	6 days
16. 28-10-99 to 3-11-99	6 days
17. 4-11-99 to 10-11-99	3 days
18. 18-11-99 to 24-11-99	5 days
19. 25-11-99 to 30-11-99	5 days
20. 1-1-2000 to 31-1-2000	13 days
21. 21-8-2000 to 20-9-2000	20 days
22. 21-9-2000 to 21-10-2000	25 days
23. 30-10-2000 to 27-11-2000	25 days
24. 1-12-2000 to 31-12-2000	26 days
25. 1-1-2001 to 31-1-2001	27 days
26. 1-2-2001 to 28-2-2001	18 days
27. March, 2001	22.5 days

The workman in the cross-examination has clearly stated that he has worked for 22.5 days in March, 2001 and thereafter he was removed. His statement in Hindi is as follows :

"मार्च, 2001 में मैंने कुल साढे बाईस दिन काम किया है। और उसके बाद से मुझे काम से हटा दिया गया।"

The witness of employer Shri Amar Nath Gupta has stated in his examination in chief that w.e.f. 21 August, 2000 to 26-3-2001 the workman worked for 163.5 days as daily wager and after 26-3-2001 the workman, Raju did not work, reason he was explained in para 9 of his examination in chief that the workman, Raju was engaged for work which was continued from 26-3-2001 and his services came to an end automatically with the cessation of work.

Not a single question has been suggested to the witness of the opposite party that the workman, Raju worked up to 4-5-2001 and thereafter his services were terminated. Whereas the disput is whether the termination of the services of Raju w.e.f. 5-5-2001 is legal. Therefore, since the workman, Raju was not terminated on 5-5-2001 and therefore, there is no question of legality or illegality.

The workman has requested that he should be treated as a casual labour of temporary status and he be regularised. He has also requested that he should be paid for since 5-5-2001 and should be treated as continuously in service.

According to the Section 25 F of the Industrial Disputes Act, 1947 no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by the employer until the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice wages for the period of the notice. It is also provided that the workman should be paid, at the time of retrenchment, compensation which shall be equivalent for fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.

Section 25 B of the Industrial Disputes Act, 1947 gives definition of continuous service according to which a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or as srike which is not illegal, or a lock out or a cessation of work which is not due to any fault on the part of the workman. A workman shall be deemed to be in continuous service under an employer for a period of one year, if the workman, during a period of twelve calendar months preceding he date with reference to which calculation is to be made, has actually worked under the employer for not less than two hundred and forty days in the present case.

It is admitted fact that the workman is not regularly, employed in the Archeological Survey of India. In the present case the workman has last worked on 26 March, 2001 and has not worked thereafter. Therefore, it has to be worked out that the workman, Raju has worked for how many days in preceding 12 calendar months from the date of termination. From the record submitted by the employer the total number of days the workman has put in is 163.5 days that is to say that in the preceding date of his termination i.e. 26-3-2001. Thus, the worker has put only 163.5 days. Therefore, his disengagement does not amount to be retrenchment. From the records before this court, it is clear that prior to disengagement of workman, Raju, he was engaged in the maintenance of SAS office and garden, Agra.

From the above discussion it is established that the workman was not terminated on 5-5-2001 as referred in the order of reference. Therefore, the reference order is bad in the eye of law. For the argument sake if it is presumed that if the date of termination is taken as 27-3-2001, then it is to be proved that before the disengagement date whether the workman has put in 240 days of service as is the requirement of law. According to the facts placed before the court it has been established that the workman, Raju has put in only 163.5 days of workman prior to his disengagement in one calendar year.

In the circumstances above the award is given against the workman and he is not entitled to any relief.

Lucknow, 3-8-2004 SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 12 अगस्त, 2004

का.आ. 2215.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जनरल मैनेजर, बी.एस.एन.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचाट (संदर्भ संख्या सीजीआईटी-30/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2004 को प्राप्त हुआ था।

[सं. एल.-40011/36/2001-आईआर (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 12th August, 2004

S.O. 2215.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-30/2002) of the Central Government Industrial Tribunal/ Labour Court Jaipur, now as shown in the Annexure in the Industrial Dispute between the employers in relation to management of General Manager, BSNL and their workman, which was received by the Central Government on 12-8-2004.

[No. L-40011/36/2001-IR (DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT JAIPUR

Case No. CGIT-30/2002.

Reference No. L-40011/36/2001-IR(DU)

Sh. Ummeda Ram,
S/o. Sh. Kirat Ram,
C/o Akhil Bhartiya Tar Pariyat Karamchari Sangh,
516, Subhash Nagar,
Pali, Rajasthan. .....Applicant

Versus

The General Manager, ...Non-Applicant
BSNL, Distt. Pali,
Pali, Rajasthan.

Present :

Presiding Officer : Sh. R. C. Sharma.

For the applicant : None

For the non-applicant : None

Date of award : 22-7-2004

AWARD

1. The Central Government in exercise of the powers referred under Clause D of Sub-section 1 & Sub-section 2(A) to Section 10 of the Indusustrial Disputes Act, 1947 (for short, 'the Act') has referred the following industrial dispute to this Tribunal for adjudication, which runs as under :—

> "Whether the action of the General Manager, BSNL., Pali in fixing the initial monthly of pay of Sh. Ummeda Ram S/o Sh. Kirat Ram to Rs. 750/- is justified and legal ? If not,to what relief the workman is entitled?"

2. After the service of the notice to the concerned parties on 23-12-2002, the workman put his presence through is representative, whereas on behalf of the non-applicant, the officer in-charge appeared before the Tribunal. Thereafter, even after seeking numerous opportunities, the workman could not even be able to file his statement of claim. It appears that the workman is not interested to contest his claim.

3. Under these circumstances, a "No Dispute Award" is passed in this matter.

R.C. SHARMA, Presiding Officer

नई दिल्ली, 12 अगस्त, 2004

का.आ. 2216.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 49/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2004 को प्राप्त हुआ था।

[सं. एल.-40012/168/2002-आई आर (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 12th August, 2004

S.O. 2216.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 49/2003) of the Central Government Industrial Tribunal/Labour Court Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt, of Telecom and their workmen, which was received by the Central Government on 12-8-2004.

[No. L-40012/168/2002-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 30th June, 2004

Present : **K. JAYARAMAN,**
Presiding Officer

INDUSTRIAL DISPUTE NO. 49/2003

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Secton 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of BSNL and their workman)

BETWEEN

Sri R. Dhasami : I Party/Petitioner

AND

The General Manager, : II Party/Management
Telecom. BSNL, Vellore

Appearance :

For the Petitioner : Mr. S. Vaidyanathan &
Mr. M. Rajendran, Advocates

For the Management : Mr. P. Arulmudi, Advocate

AWARD

The Central Government, Ministry of Labour *vide* notification Order No. L-40012/168/2002-IR (DU) dated

7-2-2003 has referred the following industrial dispute to this Tribunal for adjudication ;—

"Whether the claim of Shri R. Dhasami for reinstatement and absorption with back wages is legal and justified and if so, to what relief the workman is entitled to?"

2. After the receipt of the reference, it was taken on the file as I.D. No. 49/2003 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :

The Petitioner was employed as a part time delivery messenger in Telegraph office at Thiruvannamalai, BSNL w.e.f. 1-9-88. He was terminated in January, 1998. The work performed by the Petitioner is perennial in nature and he was continuously working in the Respondent/ Managemerft. The Petitioner has filed a O.A. No. 348/98 before Central Administrative Tribunal, Madras Bench and the Central Administrative Tribunal by an order dated 16-2-2000 disposed of the O.A. holding that the action of the management does not call for any interference. Then the Petitioner filed a W.P. No. 5218/2000 and the Division Bench of the Madras High Court in a batch of W.P by an order dated 24-4-2000 permitted the Petitioner to avail alternate remedy in accordance with law. Therefore, the Petitioner raised an industrial dispute before Regional Labour Commissioner (Central) and on the failure of conciliation, the dispute was referred to this Tribunal. The Petitioner even though joined as delivery messenger, he was asked to do the work of Safaiwala and Water Carrier also. The Petitioner worked as messenger for six hours per day apart from the doing the work of Safaiwala and Water Carrier for another six hours per day. Any how, the action of the Respondent in terminating the service of the Petitioner is in violation of principles of natural justice and arbitrary. The Petitioner was terminated because, he placed a demand for regularisation and approached the Central Administrative Tribunal for redressal. The Petitioner has completed 240 days of continuous service in a period of 12 calendar months preceding the date of termination. He has completed 480 days in a period of 24 calendar months and as such the Petitioner is deemed to have been attained the permanent status as per Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. The Respondent has not complied with the provisions of Section 25F of Industrial Disputes Act, 1947 and hence, the order of termination is void *ab initio*. The Petitioner reliably understand that the Respondent is engaging new hands and they are asked to sign vouchers in different names. The post of the Petitioner is a sancitoned post and the work is perennial in nature. The action of the Respondent is also in violation of Section 25G and H of the Industrial Disputes Act, 1947. In this case, all the documents pertaining to the Petitioner are within the custody of the Respondent/Management and if those documents are produced before this Tribunal, it will clearly prove that the Petitioner has worked more than 240 days in a continuous period of 12 calendar months. The action of the Respondent/Management in giving the work to contractor and get the work through the applicant, which he was originally doing under the Respondent is nothing short of unfair labour practice, sham and nominal. The Respondent instead of acting as model employer has acted arbitrarily and unreasonably. Therefore, the Petitioner prays the Tribunal to pass an award holding that the order of termnination of the Petitioner from service is illegal, arbitrary and mala fide and to set aside the order of termination and direct the Petitioner to reinstate the Petitioner into service with all consequential benefits.

4. As against this, the Respondent in its Counter Statement contended that no doubt the Petitioner was engaged as a part time casual labour at Thiruvannamalai from 1-9-88 on need basis. He was never engaged as full time Casual Labour. It is also false to allege that he has worked in a sanctioned post. As per ruling of the Supreme Court in Sakkubai's case, the Circle office has issued a circular that all the persons like the Petitioner should be terminated and as such the Petitioner was terminated from service on 28-1-98. It is false to allege that the work assigned to the Petitioner is perennial and regular in nature but only on need basis. The Petitioner approached the Central Administrative Tribunal, Madras by filing a case O.A. No. 348/98 seeking the same relief and the Tribunal was pleased to dismiss the said O.A. on 6-8-2000 and the Central Administrative Tribunal has declared that the Petitioner is not entitled to any relief as prayed for by him. No doubt, for the casual labourers, who were engaged on full time basis in the year 1993, a scheme for grant of temporary status and regularisation was framed. But, the Supreme Court has held that only full time Casual Labourers are entitled to temporary status and regularisation and since the Petitioner was working as part time Casual Labour he was excluded from the purview of the scheme. Hence, stoppage of work ordered by the Respondent is in order and there is no violation of Section 25F of the I.D. Act. It is also false to allege that the Petitioner was engaged to do the work of Safaiwala and Water Carrier etc. The maximum work per day would not exceed six hours. The Petitioner instead of establishing his case is trying to shift the onus on the Respondent. Since the Petitioner has chosen to file O.A. before Central Administrative Tribunal, Madass, the finding of the Tribunal is on the question of law and hence, it will bind the Petitioner and hence, he is disentitled to claim any relief before this Tribunal. The Petitioner never rendered any continuous service but he was engaged as and when required on need basis. Hence, for all these reasons the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are—

(i) "Whether the claim of the Petitioner for reinstatement and absorption with back wages is legal and justified?"

(ii) "To what relief, the Petitioner is entitled?"

Point No. 1 :—

6. The Petitioner's grievance in this case is that he was employed as part time delivery messenger in the Telegraph office at Thiruvannamalai BSNL with effect from 1-9-88 as per order under Ex. W1 and he was terminated in January, 1998 as per Ex. W4. It is his further allegation that though he joined as Delivery Messenger, he was asked to do the work of Sfaiwala and Water Carrier etc. thus, he has discharged the work of Delivery Mesenger for six hours per day apart from the work of Safaiwala and Water Carrier for another six hours per day and hence the total number of hours worked by him was more than twelve hours per day and he was paid different rates of wages for safaiwala and water carrier and for the work of Delivery Messenger. Therefore, the Petitioner contended that he has completed 240 days in a continuous period of twelve calendar months preceding his date of termination and he has also completed 480 days in a continuous period of 24 calendar months and as such he has deemed to have been attained the permanent status as per Tamil Nadu Industrial Establishment (Conferment of permanent Status to Workmen) Act, 1981. Therefore, the Petitioner has to satisfy that though he was appointed as a part time delivery messenger, he has worked more than 12 hours per day and thus, he has completed 240 days in a continuous period of 12 months and 480 days in a continuous period of 24 calendar months. For this, he relied on Ex. W5, W7 and W8. Therefore, we have to see whether he has satisfied that he has worked for more than 240 days in a continuous period of 12 calendar months?

7. As against this, the Respondent namely the Telecom Department contended that the Petitioner was engaged only as a part time casual labour at Thiruvannamalai and he was never engaged as full time casual labour and he was never done any regular work attached to sanctioned posts and after the department came to know about the judgement of Supreme Court dated 2-4-1997 in Civil Appeal No. 3318/1995 and Civil Appeal No. 7467/97, the Head of Circle has issued an order to all Unit Offices and as per the Supreme Court rulings all persons like the Petitioner were terminated and the work done by the Petitioner was assigned on contract basis and it was neither perennial nor regular but only on need basis and the allegation that he has done the work of Safaiwala and Water Carrier is false. It is the further contention of the Respondent that the Petitioner approached the Central Administrative Tribunal for the same relief and the Central Administrative Tribunal was pleased to dismiss the said Original Application on 6-8-2000 and it has held that the Petitioner was not entitled to the relief as prayed for by him and against that order, the Petitioner has also preferred a Writ Petition which was also dismissed by the High Court and therefore, the Petitioner cannot claim the same relief before this Tribunal. In a Supreme Court judgement, in a similar situation, the Supreme Court has held that "the scheme for grant of temporary status and regularisation is not applicable to part time casual labourers and it is only applicable to full time casual labourers, who have worked for eight hours per day" and therefore, the Petitioner is not entitled to any relief. It is the further contention of the Respondent that the Petitioner has not produced any evidence to show that he has worked as Safaiwala and Water Carrier, hence, he is not entitled to any claim of regularisation. Since he was appointed through back door and he was not sponsored through Employment Exchange and he gained entry into the department illegally, he cannot claim any remedy before this Tribunal.

8. On a perusal of the records and evidence given by the Petitioner as WW1 and also the evidence of Sri T.S. Manohar, MW1, who is working as Divisional Engineer in the Respondent/Management, I find the Petitioner has not established that he has worked for more than 240 days in a continuous period of 12 calendar months. Though he has relied on Ex. W5, W7 and W8 which are extracts of register of abbreviated addresses and special delivery instructions and part time wages and ACG-17 wages receipt respectively, all these receipts and other documents relates to only the work he has done as part time casual labour and not the work done by him as a Safaiwala and Water Carrier.

8A. The learned counsel for the Petitioner relied on the reply given by the Divisional Engineer namely MW1 in his cross-examination that from Ex. W7 and W8 they have calculated total number of days the Petitioner has worked as part time employee and paid wages and subsequently he deposed that the Respondent has got document to show how many days the Petitioner had worked and based on which vouchers were prepared, but he admitted that they have not produced those documents before this Tribunal. Under such circumstances, if the documents are produced before this Tribunal, it will reflect upon the Petitioner's engagement as part time casual employees and also as a Safaiwala and also as a water carrier and since the Respondent has not produced the documents, which they have possessed, an adverse inference is to be drawn against the Respondent and it must be held that the Petitioner has worked for more than 240 days in a continuous period of 12 months because nearly ten years, the Petitioner has worked in the Respondent/Management.

9. Tholugh, I find some force in the contention of the learned counsel for the Petitioner, since the Petitioner has not produced any document to show that he has worked as Safaiwala and Water Carrier, from the vague admission of the Respondent's witness, no inference can be drawn in favour of the Petitioner. Further, the Petitioner has clearly stated that he has not produced any document to show that he has worked as Safaiwala and since the Respondent has clearly stated the Petitioner was not engaged as Safaiwala or Weter Carrier at any point of time, the Petitioner has to establish the fact that he has worked as Safaiwala and as a Water Carrier and he has worked more than eight hours per day and he has completed 240 days in a continuous period of 12 calendar months, preceding the date of his termination. Therefore, I find there is no substance in the contention of the learned counsel for the Petitioner.

10. The next contention of the Respondent is that the Petitioner has first approached the Central Administrative Tribunal, Madras Bench for the same relief and the Central Administrative Tribunal has dismissed the application taking note of the fact that the department has taken recourse to award the work by floating tenders and have given it to the contractors. The judgement of Central Administrative Tribunal was taken on appeal by the Petitioner to the High Court by filing Writ Petition No. 5218/2000 and the Hon'ble High Court has also passed an order dated 24-4-2000 dismissing the Writ Petition that there is no error or illegality in the order of Tribunal dated 16-2-2000. Therefore, the only remedy available in law after the dismissal of Writ Petition is to file an appeal before the Supreme Court. Further, after having exercised an option to go before the Central Administrative Tribunal, it is not open to the Petitioner to raise an industrial dispute before the Industrial Tribunal and the same is barred by Section 11 of CPC, since both the cases and parties are common and the cause of action is the same and therefore, the Industrial Dispute raised by the Petitioner is not maintainable in law and is liable to be dismissed.

11. But, as against this, the learned counsel for the Petitioner contended that though he has preferred an application before the Central Administrative Tribunal and preferred a Writ Petition before the High Court, the High Court has clealry stated that the dismissal will not preclude the Petitioner to avail any remedy, if available in accordance with law. Under such circumstances, it cannot be said merely O.A. filed before the Central Administrative Tribunal and also Writ Petition filed before High Court were dismissed, the Petitioner is not entitled to raise any dispute before the Industrial Forum.

12. Again, the learned counsel for the Respondent contended that the Administrative Tribunal and Industrial Tribunal are not having concurrent jurisdiction and the Central Administrative Tribunal exercised the jurisdiction under Article 226 of Constitution and in this case, when the Petitioner approached the Central Administrative Tribunal and the High Court and suffered with adverse orders and the Petitioner's plea that he can raise industrial dispute even after the dismissal of O.A. and also Writ Petition is not maintainable. But, the counsel for the Petitioner has strongly relied on the wordings in Ex. M5 wherein the High Court has held '*however the dismissal of Writ Petition will not preclude the Petitioner to avail any remedy, if available in accordance with law*' and stated that the remedy to raise industrial dispute under Labour Laws is not precluded by preferring O.A. and also Writ Petition before the High Court and as such this objection is not maintainable.

13. I find some force in the contention of the learned counsel for the Petitioner because, the High Court has given permission to the Petitioner to prefer any legal remedy available to the Petitioner before the forum as per law. But, the main point to be decided in this case is whether the Petitioner has established the fact that he has worked for more than 240 days in a continuous period of 12 calendar months preceding his date of termination. I find the Petitioner has not established this fact with any satisfactory evidence before this Tribunal. From the documents produced by the Petitioner, it is not established that he has worked for 240 days and eight hours duty per day.

14. Then again, the learned counsel for the Petitioner argued that the Supreme Court in 1985 II LLJ 4 held that "*on discontinuance of the system of direct payment without ordering retrenchment of service of handling workers by Food Corporation of India, they obtained, fresh employment under the contractor. Further, it is held that if the termination of service by the first employer is contrary to well established legal position, the effect of employment by 2nd employer is usually irrilevant and also held if what was intended to be done was retrenchment ex-facie the action is contrary to Section 25F of the Industrial Disputes Act, 1947. the action of introducing contract system so as to displace the contract of service between Food Corporation of India and concerned workmen would be illegal and ab initio, void and such action would not alter or change or have any effect on the status of workmen who had become employees of the Corporation as a result of direct payment system.*" Relying on this decision, the learned counsel for the Petitioner contended that the Petitioner was appointed directly by the Respondent/Management and from 1996 the same was given to him through the contractor, and therefore, as per the judgement, it is invalid and *void ab initio* and he is entitled to be reinstated into service as per the judgement cited above.

15. But, again the learned counsel for the Respondent argued that the Petitioner has conveniently omitted to place the Supreme Court judgement in Sakkubai's

case which relates to part time casual labour in Telecom department. Even in the subsequent judgement in Janakdhari Pasan's case, it is clearly held that even for full time casual labourers, 1993 scheme will be available only to those casual labourers who were engaged for eight hours work and the benefit under the scheme are conferred on those who covered. In this case, the Petitioner has not established that he has worked for eight hours, on the other hand, he was engaged only as a part time casual labour and he has not worked more than six hours per day. Under such circumstances, he cannot claim any relief as per the Supreme Court judgement relied on by the Petitioner. On the other hand, the judgement of Sakkubai's case in Civil Appeal No. 331/95 squarely applies to the Petitioner and since the Petitioner has not established that he has worked for eight hours per day for more than 240 days in a continuous period of 12 calendar months, he is not entitled to the claim of temporary status and that is why as per the orders of Chief General Manager, Telecom Department, the Petitioner was disengaged and therefore, he is not entitled to claim any relief. Further, the learned counsel for the Respondent has also produced a copy of Criminal Appeal No. 360-361 of 1994.

16. On a perusal of the said judgement and on hearing of the arguments on either side, I find since the Petitioner has not established that he has worked for more than 240 days in a continuous period of 12 calendar months, he cannot claim temporary status or regularisation as claimed by him. Hence, I find this point against the Petitioner.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled?

17. In view of my findings on the foregoing issues, I find the Petitioner is not entitled to any relief as claimed by him. No Costs.

18. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 20th June, 2004.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the I Party/Workman : WW1 Sri R. Dhasami

For the II Party/Management : MW 1 Sri T.S. Manoharan

Documents Marked :—

For the I Party/Workman :

Ex.No.	Date	Description
W1	03-09-88	Xerox copy of the letter from Respondent to Petitioner Regarding engagement of part-time employees
W2	18-10-97	Xerox copy of the letter from Petitioner to General Manager
W3	01-11-95	Xerox copy of the payment of part time wages.
W4	03-01-98	Xerox copy of the order of termination
W5	Nil	Extract of register of abbreviated addresses and special Delivery instructions.
W6	16-09-99	Extract of conversion of part time Casual Labourers
W7	03-09-99	Xerox copy of the bill for part time wages.
W8	Nil	Xerox copy of the ACG 17 Wage receipt

For the II Party/Management :—

Ex.No.	Date	Description
M 1	01-04-96	Xerox copy of the agreement entered by Petitioner to do work on contract basis.
M 2	01-01-98	Xerox copy of the letter from CGM, Telecom
M 3	29-03-98	Xerox copy of the O.A. filed by Petitioner before Central Administrative Tribunal
M 4	16-02-2000	Xerox copy of the order passed by Central Administrative Tribunal
M 5	24-04-2000	Xerox copy of the order passed by High Court

नई दिल्ली, 12 अगस्त, 2004

का.आ. 2217.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग ऑप्टिकल फाईबर डिवीजन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 15/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2004 को प्राप्त हुआ था।

[सं. एल.-40012/284/2001-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 12th August, 2004

S.O. 2217.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 15/2002) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of Deptt. of Telecom, Optical Fibre Division and their workman, which was received by the Central Government on 12-8-2004.

[No. L-40012/284/2001-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 6th July, 2004

PRESENT : K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 15/2002

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of The Divisional Engineer, Optical Fibre Division, Department of Telecom and their workman)

BETWEEN

Sri S.K. Edward Rajkumar : I Party/Petitioner

AND

The Divisional Engineer, Optical Fibre Division, Department of Telecom, Chennai. II Party/Management

APPEARANCE:

For the Workman : M/s. P.V.S. Giridhar Associates, S. Jeevanandham, Manjula A. Advocates

For the Management: Mr. K. Rajendran, CGSC

AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-40012/284/2001-IR(DU) dated 29-01-2001 has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the termination and non-regularisation of Sri S.K. Edward Rajkumar by the Department of Telecommunications, Optical Fibre Division, Chennai-84 is legal and justified? If not to what relief the workman is entitled?"

2. After the receipt of the reference, it was taken on file as I.D. No. 15/2002 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner joined the Department of Telecommunciation under the Respondent as a Heavy Motor Vehicle Driver on 22-6-99. the Petitioner was allotted additional work of watchman on 30-12-2000. He was paid Rs. 85/- per day as wages. He was all along requesting the Respondent/Management to regularise his service and also seeking payment of statutory benefits. While so on 8-3-2001, when the Petitioner reported for work, he was informed that his services were no more required, Thus, he was orally terminated on 8-3-2001. The above action of the Respondent in terminating the services of the Petitioner is arbitrary, unreasonable and violative of principles of natural justice. Further, the action also amounts to unfair labour practice. Further no retrenchment notice was issued to him and retrenchment compensation was not paid as per Industrial Disputes Act, which is contrary to provisions of Section 25F of the Industrial Disputes Act. The Respondent employs more than 100 workmen and as such are bound by Section 25N of Chapter VB of the I.D. Act. Therefore, without issuing three months notice and without obtaining the permission of the Central Govt. before retrenching the Petitioner, the order passed by the Respondent is illegal. Hence, he has raised the industrial dispute before Assistant Labour Commissioner (Central) and on the failure of conciliation, the matter was referred to this Tribunal for adjudication. Hence, the Petitioner prays that an award may be passed directing the Respondent to reinstate the Petitioner into service with continuity of service, back wages and other attendant benefits.

4. As against this, the Respondent contended in its Counter Statement that it is false to allege that the Petitioner was engaged from 22-6-99 to 8-3-2001. The Petitioner approached the department duly July, 1999 for any work and hence he was engaged as an outsider intermittently on daily rate wages whenever the regular drivers availed leave provided if his service is required. The Petitioner worked intermittently for 76 days in the year 1999 and 131 in the year 2000. Subsequently, he was not engaged since his service was no more required. The Petitioner was not appointed and terminated at any point of time. Since the Petitioner was not worked for 240 days in any 12 calendar months, the question of retrenchment and notice under Section 25F of the I.D. Act does not arise. This Respondent has appointed less than 50 persons in their Optical Fibre, Equipment Division. The allegation contra to this is false. Hence, the action of the Respondent/Management is legal and justified and the Petitioner is not entitled to any relief. Hence, the Respondent prays that the claim may be dismissed with costs.

5. Again, the Petitioner in his additional Claim Statement has contended that he has put in more than 240 days of service in one year preceding his termination. Further, his service was appreciated by Sri Annadurai, SDE, Telecom Optical Fibre Equipment Division, Chennai and his successor on 13-2-2001. the Petitioner was not only working as Driver but also as a watchman. He was usually

allowed to sign the log book of vehicle, out he was prevented from signing the log book between 22-6-99 to 30-6-99 and in the months of September and October, 1999, 14th to 18th and 22nd to 25th February, 2000, 8th to 17th, 26th to 30th June, 2000, August, September and November, 2000 even though he was continuously working during the said period. The optical fibre division is an integral part of the Department of Telecommunications which employs more than 1000 workmen. Therefore, he prays that this Tribunal may be pleased to pass an award in his favour.

6. In these circumstances, the points for my consideration are—

(i) "Whether the termination and non-regularisation of the Petitioner by the Respondent/Management is legal and justified?

(ii) "To what relief, the Petitioner is entitled?"

Point No. 1 :—

7. In this case, the contention of the Petitioner is that he was continuously employed from 22-6-99 to 8-3-2001, when he was orally terminated by the Respondent and he has put in more than 240 days of service in one year preceding his termination. He was not only functioning as a driver of the Respondent/Management but also a watchman from 30-12-1999 and whenever, he took the vehicle of the Respondent out, he used to sign the log book of the vehicle, but in some times, he was prevented from signing the log book and that too from 22-6-1999 to 30-6-1999 and in the months of September, October, 1999, 14th to 18th and 22nd to 25th February, 2000, 8th to 17th and 26th to 30th June, 2000, August, September and November, 2000 and even though he was continuously working during the said period, he was prevented by his superior officers and therefore, he has not signed any log book but he was paid all these days by miscellaneous vouchers and if the vouchers are produced, it will prove that he has completed more than 240 days of service in a continuous period of 12 calendar months. But, as against this, the Respondent contended that the Petitioner approached the department only during 1999 and he was engaged as a driver intermittently when regular drivers availed leave, provided if his services were required and the Petitioner has worked intermittently for 76 days during the year 1999 and 131 days in the year 2000 and he was not subsequently engaged as his service was no more required by the department and he has not worked for 240 days in a period of 12 calendar months. Since he was not appointed and terminated by the Respondent, the question of retrenchment and notice under Section 25F does not arise.

8. In this case, the Petitioner has examined himself as WW1 and produced four documents which are marked as Ex. W1 to W4. Ex. W1 is the experience certificate given by Sub Divisional Engineer, Telecom of Respondent/ Management. Similarly, Ex. W2 is the xerox copy of the conduct certificate given by some Sub Divisional Engineer of Respondent/Management. The third document is also another experience and conduct certificate given by another Sub Divisional Engineer of the Respondent/ Management. The Respondent produced the 4th document which is the xerox copy of the log book entries for the vehicles of the Respondent department and also xerox copy of the duty chart register for Watchman. As against this, on the side of the Respondent, the Sub Divisional Engineer one Mr. K. Selvaraj was examined and through him Ex. M1 and Ex. M2 were marked. Ex. M1 is the xerox copy of the log book entries for the vehicles of Respondent department. Ex. M2 is the xerox copy of the statement showing the number of days the Petitioner was engaged by the Respondent. The Petitioner as WW1 in his evidence stated that the Respondent/Management was maintaining attendance register and he has also signed in that register. Similarly, log book was maintained for departmental vehicle and he has signed most of the days and for certain days, he was not permitted to sign the log book and he was prevented by the Sub Divisional Engineer and the Junior Engineer.

9. The learned counsel for the Petitioner contended that only to prevent the Petitioner in getting the benefits under Industrial Disputes Act, 1947, the Respondent/ Management has prevented the Petitioner from signing the log book entries, because if he has signed in log book continuously, it will reflect upon the management and only to prevent the Petitioner from getting the benefits, they have refused permission to the Petitioner from signing the log book. The learned counsel for the Petitioner further argued that even from the documents produced by the Petitioner from July, 1999 to June, 2000, the Petitioner has worked more than 181 days and if we add 52 holidays, it will come to 232 days and further if we calculate holidays in between the month, the Petitioner has worked more than 240 days and this argument was advanced only for the sake of argument. But, even from the documents it can be seen that for certain days, they have not obtained the driver's signature in the log book. The witness examined on the side of the Respondent has admitted that they have not obtained the signature and they have got documents to prove that who has driven the vehicle on these days. The witness for the management MW1 has admitted that in Ex. W4 from 02-06-2000 to 30-06-2000 the columns driver's signature was not filled up in the log book and also for September and October, 1999 from 14-2-2000 to 18-02-2000, 22-02-2000 to 25-02-2000 8th to 17th and 26th to 30th June, 2000 and August, September, and November, 2000 the driver's signature was not obtained and there is also guidelines in their office to fill up the log book entries and if a long trip is undertaken by the driver, the log book must be filled up and signed by the driver and on comparison of all log books, the Respondent can say which driver was

engaged for which vehicle and also whether the services of permanent driver was utilised or not. But, they have not produced any document to show that in the above days, the Petitioner has not driven the vehicle and only the permanent driver or some other person has driven the vehicle. Under such circumstances, an adverse inference can be drawn against the Respondent/Management. Further, he has relied on the rulings reported in 1986 I LLJ 127 H.D. SINGH Vs. RESERVE BANK OF INDIA AND OTHERS, wherein while considering the case of Tikka mazdoors employed in Reserve Bank of India, the Supreme Court has held that "*it is seen that Tikka Mazdoors worked for four days in 1974, 154 days from January, 1975 to December, 1975 and 105 days from January 1976 to July, 1976. The appellant has denied work from July, 1976. His affidavit shows that he had worked for 202 days from July, 1975 to July, 1976. According to him, if we add 52 Sundays and 17 holidays, the total number of days on which he worked comes to 271 days. . ...The appellant wanted relevant records to be filed but they were not produced..... In the absence of any evidence to contrary, we have necessarily to draw the inference that the appellant's case that he had worked for more than 240 days from July, 1975 to July, 1976 is true.*" Relying on this judgement, the learned counsel for the Petitioner contended that though the Respondent contended that the attendance register for mazdoor and also the petty cash vouchers were destroyed then and there only after producing a copy of log book entries, the Respondent has produced Ex. M2 that too without some pages. Under such circumstances, the Court can take an adverse inference against the Respondent and if the documents are produced, then it will prove that the Petitioner has worked for more than 240 days in a continuous period of 12 months and therefore, and it must be held that the Petitioner has established this fact with sufficient evidence that he has worked for more than 240 days in a year. Further, the learned counsel for the Petitioner argued that the Petitioner not only worked as a driver of the departmental vehicle but also worked as a watchman in the Respondent/Management, which fact was denied by the Respondent in its Counter Statement and also in the evidence of MW1. But, when the document Ex. W4 was produced which contains duty chart register of the watchman, he cannot deny the contention of the Petitioner. On the other hand, MW1 has answered that it can be known only to the concerned officer, who has given work to the Petitioner. Further, the learned counsel for the Petitioner argued that the Petitioner has produced three certificates given by Sub Divisional Engineers of the Respondent/Management wherein the Sub Divisional Engineer has given a cerficate that the Petitioner was working as Heavy Vehicle Motor Driver from 22-6-99 to till this date namely the date of certificate. Though, the learned counsel for the Respondent argued that the persons who have given conduct certificate has no power or authority to give such certificate. It is the fact admitted by MW1 that officers who have signed in conduct certificates are very well available in the department and for the reasons best known to the Respondent, they have not been examined in this case to deny the fact mentioned in these documents. Though, I accept, these documents will positively prove the fact that the Petitioner has worked for more than 240 days in a continuous period of 12 calendar months, since the Petitioner has produced log books and also copy of certificates. I find the Respondent has want only deny the fact that the Petitioner has not worked for more than 240 days as alleged by him. The learned counsel for the Petitioner further relied on the rulings reported in 1981 LIC 806 MOHANLAL Vs. BHARAT ELECTRONICS LTD. wherein the Supreme Court has held that "*Niceties and semantics apart, termination by the employer of the service of workman for any reason whatsoever would constitute retrenchment except in cases excepted in the section itself. The excepted or excluded cases are where termination is by way of punishment inflicted by way of disciplinary action, voluntary retirement of the workman, retirement of the workman on reaching the age of superannuation, if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf and termination of the service of a workman on the ground of continued ill health. In the instant case, the termination of service of appellant does not fall within any of the exceptions or to be precise, excluded categories. Undoubtedly, therefore, the termination would constitute retrenchment. It is well settled that where pre-requisite for valid retrenchment as laid down in section 25F has not been complied with retrenchment bringing about termination of service is ab initio void. Before a workman can complain of retrenchment being not in consonance with Section 25F of the Act, he has to show that he has been in continuous service for not less than one year under that employer who has retrenched him from service. Section 25B is the dictionary clause for the expression continuous service.*" Relying on these decisions, the learned cousel for the Petitioner argued that from the documents produced by the Petitioner and also by the Respondent, it is clearly established that the Petitioner has worked for more than 240 days in a continuous period of 12 months and the termination of the services of Petitioner does not fall within any of the exceptions i.e., excluded categories, and therefore, the termination would constitute retrenchment. It is well settled by plethora of cases, where pre-requisite for valid retrenchment as laid down under section 25F has not been complied with, retrenchment bringing about termination of service is *ab initio void*. In this case, since the Petitioner has established that he has been terminated without any notice as contemplated under section 25F of the Industrial Disputes Act, 1947, the termination is invalid and illegal. It is his further argument that though the Respondent has produced certain documents, they have not produced the relevant documents which clinches the issue. Under such circumstances, the Tribunal can come

to rescue of the Petitioner and direct the Respondent to reinstate the Petitioner into service.

10. As against this, the learned counsel for the Respondent argued that the documents produced by the Petitioner will not prove that the Petitioner has worked for more than 240 days in a continuous period of 12 calendar months. It is his further argument that the Petitioner was appointed only as an outsider and he was engaged intermittently on daily rated wages when ever the regular drivers availed leave and provided, if his service was required.

11. But I find this contention of the learned counsel for the Respondent is not valid because from the documents produced on either side, I find the Petitioner has continuously worked under the Respondent/Management. The contention of the Respondent that he was engaged intermittently on daily rated wages cannot be accepted because the Petitioner was appointed continuously in every month and we cannot say that all the regular drivers had availed leave continuously for these periods. Therefore, I find only to prevent the Petitioner from getting the benefits of Labour Legislations, this contention was raised by the Respondent.

12. Then again the learned counsel for the Respondent argued, that before giving direction for regularisation, the Court must act with due care and caution, practical and pragmatic view has to be taken inasmuch as every such direction not only tells upon the public exchequer but also has the effect of increasing the cadre strength of a particular cadre, service or category. Candidates who are sought to be regularised may be neither sponsored by Employment Exchange nor appointed after issuing a proper advertisement calling for applications. In short, it may be a back door entry and direction to regularise such appointments would only result in encouragement to such unhealthy practices. Further, the learned counsel for the Respondent argued that where there were no vacancy or work was not available in the establishment in such cases, if the Court orders for regularisation, it will jeopardise the work of the Respondent/Management. Under such circumstances, since the Petitioner has not clearly established that he has worked more than 240 days in a continuous period of 12 months and since he has worked only as a daily wager, his services cannot be regularised and he should not be reinstated as claimed by him. It is well settled that in such cases, regularisation cannot be ordered by the Tribunal.

13. On the other hand, I find since the Petitioner has established that he has worked for more than 240 days in a continuous period of 12 calendar months, he should be reinstated in the post in which he held before his retrenchment. As such, I find this point in favour of the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled ?

14. In view of my foregoing findings, I Find the Petitioner is to be reinstated in service as prayed for by him. But, with regard to back wages, I find he is not entitled to claim any back wages. No Costs.

15. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 6th July, 2004.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the I Party/Workman : WW1 Sri S.K. Edward Rajkumar

For the II Party/Management : MW 1 Sri K. Selvaraj

Documents Marked :—

For the I Party/Workman :

Ex.No.	Date	Description
W1	14-12-99	Xerox copy of the experience certificate of Petitioner.
W2	25-04-2000	Xerox copy of the conduct certificate of Petitioner.
W3	13-02-01	Xerox copy of the experience & conduct certificate of Petitioner.
W4	Nil	Extract of Log book entries of Respondent/Management.

For the II Party/Management :

Ex.No.	Date	Description
M 1 series (27)	Nil	Extract of Log book entries.
M 2 series (2)	Nil	Xerox copy of the statement showing number of days the I Party has worked under Respondent/Management.

नई दिल्ली, 12 अगस्त, 2004

का.आ. 2218.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-I के पंचाट (संदर्भ संख्या 136/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2004 को प्राप्त हुआ था।

[सं० एल.-20012/102/92-आई.आर. (सी-I)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th August, 2004

S.O. 2218.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 136/93) of the Central Government Industrial Tribunal/Labour Court, Dhanbad I, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 10-8-2004.

[No. L-20012/102/92-IR (C-I)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference U/S. 10 (1) (d) (2A) of the Industrial Disputes Act, 1947.

Reference No. 136 of 1993.

PARTIES : Employers in relation to the management of Katras Project Area of M/S. B.C.C. Ltd.

AND

Their Workman

PRESENT :

Shri B. Biswas, Presiding Officer

APPEARANCES :

For the Employers : Shri R. N. GANGULY, Advocate.

For the Workmen/Union : Shri S.N. Goswami, Advocate.

State : Jharkhand. Industry : Coal

Dated, the 19th July, 2004

AWARD

By Order No. L-20012/102/92-IR (Coal-I) dated 27-8/1-9-1993 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

> "Whether the demand of the Bihar Janta Khan Mazdoor Sangh for employment of Shri Pawan Kumar Singh and 21 others (list enclosed as Tyndal in Katras Choitudih Colliery of M/S. BCCL is justified? If so, to what relief the workmen are entitled?"

2. The case of the concerned workmen according to the written statement submitted by the sponsoring union on their behalf, in brief, is as follows :

The sponsoring union submitted that Pawan Kumar Singh and 21 other tyndals who have been considered as concerned workmen in the instant case were engaged by the management of Katras Choitudih Colliery under Katras Project Area through intermediary Pawan Kumar Singh to perform duties of heavy Tyndals in the year 1988. The said Pawan Kumar Singh was head man (Jamadar). They submitted that since the date of their engagement to perform duties of Tyndal jobs in the underground the concerned workmen are performing the same at various pits of Katras Choitudih Colliery under direct control and supervision of the management. They submitted that the concerned workmen performed the duties in the underground as Heavy Tyndals continuously till they were stopped from work w.e.f. 3-2-1992. They submitted that in course of performing the said job of tyndals the management used to issue requisition slips to the concerned workmen to bring, to carry, to lift materials, machinery etc. in the name of gang leader, P.K. Singh. They submitted that the jobs which the concerned workmen used to perform were permanent and perennial in nature and similar type of jobs which have been done by departmental workmen in the Colliery. They submitted as the job of tyndal comes under prohibited category of job the management had no scope to engage contractor for performing such jobs continuously. They submitted that in discharging of their duties they used to make their attendance in Form 'C' Register and Cap lamp Issue Register. They categorically denied the fact that the concerned workmen were ever engaged by any contractor. They disclosed that the concerned workmen had been performing their duties as tyndals which were permanent and perennial in nature from 1988 continuously for a period of four years without any interruption and put their attendance for more than 190 days in each calendar year. But inspite of rendering their continuous service the management intentionally avoided to make entry their names in Form 'B' Register or CMPF Register violating the provisions of law and avoiding to provide the status of permanent benefits like that of departmental workmen. They submitted that the management used to pay wages to the concerned workmen sometimes through counter and

sometime through Jamadar/Gang Leader, P.K. Singh who is one of the concerned workmen, but the said payment was far less than the wages of Category VI & V of the Tyndals. They disclosed that the L.E.O. (C), Katras and A.L.C. (C), Dhanbad made joint spot enquiry on 2-2-1992 at Katras Choitudih Colliery of Katras Project Area and found the concerned workmen working at various pits. They submitted that after the said enquiry the management stopped the work of the concerned workmen w.e.f. 3-2-1992 without any notice as provided under Sec. 25-F of the I.D. Act. They alleged that thereafter several representations were submitted to the management for reinstatement of the concerned workmen but to no effect for which they raised an industrial dispute before the A.L.C. (C), Dhanbad, for conciliation which ultimately resulted reference to this Tribunal. It is the specific allegation of the sponsoring union that the management stopped the work of the concerned workmen illegally, arbitrarily and violating the principle of natural justice and for which submitted prayer to pass award directing the management to reinstate the concerned workmen in the services of tyndals from 3-2-1992 with full back wages and other consequential relief.

3. The management, on the contrary, after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workmen. They submitted that no employer-employee relationship existed between them and the concerned workmen any day. They disclosed that in running a coal mine several machineries are required to be installed for its proper functioning. The type of break down and kinds of break down of machineries cannot be foreseen or anticipated in advance. Similarly during rainy season on account of heavy percolation of water some mines may get drowned and it becomes necessary to shift the pumps, haulages and cables etc. from one place to another palce for its safety. Similarly there are various operations about which it is difficult to foresee in advance. So in order to deal with erratic and urgent works contractors are engaged for the purpose of shifting of machineries, cables, pipes, switches, gears etc. as well as to attend break-down as and when required. They submitted that they have sufficient permanent workmen on their roll to carry on regular installation and maintenance jobs of machineries, plants and equipments. They have also sufficient manpower to make statutory inspections as per provisions of Coal Mines Regulation, Rules and Orders made under the Mines Act, 1952. They disclosed that Pawan Kumar Singh was allotted contractual works from time to time on some temporary jobs on as and when basis. He was never given any permanent and regular job and he was not required to work on regular basis on any job. The work order was issued in his favour for taking up different item of works at different period of time, but the said job which was asked to perform was not permanent in nature. To perform the said temporary job he used to recruit his own men and the work used to be done under his own control. Accordingly, the workmen engaged by the said contractor were not the workmen of the management and as no master and servant relationship ever grew up the concerned workmen cannot place their claim for regularisation. The jobs which were absolutely temporary in nature and which were given to Pawan Kumar Singh to perform as per work order in no circumstances can be considered as jobs within prohibited degree. The jobs which had been given to the said Pawan Kumar Singh to perform absolutely for a temporary period and used to crop up due to unforeseen condition in the mine. They categorically denied the fact that the concerned workmen ever worked under the management as Tyndals and for which the question of their regularisation never arose and for which they are not entitled to get any relief in view of their prayer. The management accordingly submitted prayer to pass award rejecting the claim of the concerned workmen.

Points to be decided :

4. "Whether the demand of the Bihar Janta Khan Mazdoor Sangh for employment of Shri Pawan Kumar Singh and 21 others (list enclosed) as Tyndal in Katras Choitudih Colliery of M/s. BCCL is justified? If so, to what relief the workmen are entitled?"

Finding with reasons :

5. It transpires from the record that the sponsoring union with a view to substantiate the claim of the concerned workmen examined two witnesses as WW-1 and WW-2, while with a view to substantiate their claim management examined one witness as MW-1.

From the evidence of WW-1 it transpires that he started working under the management at Katras Choitudih Colliery as Tyndal alongwith other concerned workmen. He submitted that they used to carry tyndal work from surface to underground and vice versa. Every day before taking up work they used to note their attendance at the Pit and after making attendance cap lamps used to be supplied to them and thereafter they were allowed to enter inside the mine for taking up the job. The official of the management thereafter used to distribute the jobs of tyndal to them and they used to carry out the same under the supervision of Overman, Colliery Manager, Agent and Engineer. Even sometimes they used to take up work of tyndal at different Collieries under the direction of the management. This witness disclosed that on the basis of the slip issued by the management they used to collect tyndal materials from the Regional Stores. Some slips during evidence of WW-1 were marked Ext. W-1 series. This witness disclosed further that from 1986-87 till 2-2-92 they performed the job of tyndal under the management continuously and during this period they performed their duties for more than 190 days in each year. On 2-2-1992 the

L.E.O. (C) and A.L.C. (C) inspected the mine where they were engaged for taking up the work of tyndals and after inspection the said L.E.O. (C) and A.L.C. (C) submitted a report against the management. Certified copy of the report during evidence was marked as Ext. W-2. He alleged that thereafter the management stopped them from work w.e.f. 3-2-92. WW-2 also during his evidence corroborated the facts disclosed by WW-1.

Now, considering the evidence in chief of WW-I and WW-2 it transpires that they were actually engaged by the management to perform the jobs of tyndal in the year 1986-87 and in that capacity they worked till 2-2-92 continuously. It is their contention that during the period they used to make their attendance at the Pit before entering inside the mine for taking up the jobs of tyndal. It is curious to note that the facts which WW-1 disclosed in course of evidence finds no conformity with the facts disclosed in para 1 of the written statement submitted by the sponsoring union. From para 1 it transpires clearly that they were engaged by the management through intermediary, Pawan Kumar Singh to perform the duties of tyndal. Therefore, it is clear that it is not true that they were directly engaged by the management for taking up the jobs of tyndal. In course of cross-examination both WW-1 and WW-2 admitted that the L.E.O. (C) and A.L.C. (C) filed a criminal case against the contractor and the management for engaging contractor's workers. WW-1 during cross examination categorically denied that they ever worked under the contractor and for which he also denied the fact that they worked in the mine as per work order issued in favour of the contractor. These two witnesses admitted that neither any letter of appointment nor any Identity Cards were issued to them. They also have failed to produce a single scrap of paper to show that they received their wages from the cash counter of the management. The concerned workmen in support of their claim relied on certain requisition slips marked Ext. W-1 series. These requisition slips appear to be scattered in nature and bear no authentic value to show their continuous working under the management as tyndals. Therefore, relying on these requisition slips there is no basis to arrive into any conclusion that the concerned workmen were engaged by the management to work as tyndals since 1986-87.

From the evidence of MW-1 it transpires that the management have sufficient number of workmen in mechanical side and for which there was no requirement of extra workmen to work in the mechanical department. It has been submitted by the management that during rainy season and also in case of urgency to meet up exigency some extra hands were required to meet up the problem which were absolutely temporary in nature. Accordingly, on the basis of work order they engaged contractor to get certain jobs done which cropped up without any notice. MW-I submitted that Pawan Kumar Singh was a contractor to whom the management used to issue work order for taking up such emergency jobs which were temporary in nature. He categorically denied that the jobs which were entrusted to Pawan Kumar Singh as per work order were in prohibited category. This witness further submitted that Pawan Kumar Singh with a view to perform those jobs of temporary and intermittent nature used to engage his own workmen and he used to pay wages for the services rendered by those workmen. Therefore, considering the facts disclosed in the pleadings of both sides and also considering the evidence of MW-I it is clear that Pawan Kumar Singh was an intermediary who used to engage the concerned workmen for taking up certain jobs under the management though the concerned workmen denied this fact. From the reference in question it transpires that the name of Pawan Kumar Singh has been referred in Sl. No. 1. The sponsoring union listed Pawan Kumar Singh as one of the concerned workmen though as per para 1 of their written statement it transpires that he was an intermediary who engaged the concerned workmen. However, all the discrepancies which are appearing from the evidence of WW-1 as well as from the facts disclosed in the written statement submitted by the sponsoring union could be made clear if the sponsoring union examined Pawan Kumar Singh as witness in the instant case. When it has not been possible on the part of the sponsoring union to examine Pawan Kumar Singh as witness they cannot avoid their responsibilities to establish that it was the management who engaged the concerned workmen to work as Tyndals at Katras Choitudih Colliery. I find no hesitation to say that inspite of getting ample opportunity the sponsoring union except filing certain documents marked Ext: W-1 series have failed to produce a single scrap of paper in support of their claim. It is to be borne into mind that Katras Choitudih Colliery is not a private Organisation but a Government of India Undertaking. Therefore, the management of this colliery is to maintain norms for recruitment of workmen. The concerned workmen just finished their duties by saying that they were engaged by the management did not consider necessary to disclose how they were engaged by the management. They disclosed that they used to draw wages from the cash counter of the office of the management, but have failed to produce a single wage slip in support of their claim. It is not the case of the sponsoring union that the contractor to whom the management engaged was a camouflage one and in disguise of the said contractor they used to engage the concerned workmen for taking the services of tyndals, paying less wages with some ulterior motive. Therefore, as no such case has been made out there is no scope to draw conclusion that the said contractor was a camouflage one. It is admitted fact that L.E.O. (C) inspected the colliery on 2-2-92 and found the concerned workmen to work there. In that regard he submitted a report, the certified copy of which during

evidence of the workmen was marked as Ext. W-2. From para 5 of page 2 of the report it transpires as follows :

> "The above licencees are being paid between Rs. 21 and Rs. 25/- and entire payment against the workers is made to Pawan Kumar Singh, Jamadar of the workmen who in term distributes the amount amongst the above-mentioned workers i.e. the concerned workmen."

Therefore, the report shows clearly that Pawan Kumar Singh was the contractor who engaged the concerned workmen for doing certain jobs as per work order issued by the management. However, as the L.E.O.(C) did not find the register maintained properly to that effect lodged a complaint before the learned Chief Judicial Magistrate, Dhanbad, which was registered as Case No. PW-694/92 against the Additional Chief Mining Engineer/Agent, Katras Choitudih Colliery of M/s. BCCL. The said case was disposed of by the learned Magistrate on 1-10-94 and the said accused person, Addl. Chief Mining Engineer/ Agent was acquitted from all the charges brought against him by the L.E.O.(C).

I have carefully considered the certified copy of the judgement and the observation made by the learned Magistrate. It transpires clearly that the concerned workmen were the workmen of the contractor and performing certain jobs under the management. There is also clear observation to the effect that it was the contractor who used to pay wages to them. Therefore, the report of L.E.O. (C) as mentioned above and observation of the learned Magistrate in his judgement if considered together will expose clearly that the management never engaged the concerned workmen to work as tyndals. On the contrary, it has been exposed clearly that as per work order the contractor, Pawan Kumar Singh was allowed to carry on certain jobs and in doing so he engaged the concerned workmen. It further reveals from the report of the L.E.O. (C) as well as from the judgement of the learned Magistrate that it was the contractor who used to pay wages directly to the concerned workmen. Therefore, it reveals clearly that no employer and employee relationship ever grew up in between the management and the concerned workmen. As per Sec. 10 of the Contract Labour (Regulation and Abolition) Act the job of tyndal comes under the prohibited degree and for which the same cannot be done by any contractor labours. It is the specific claim of the concerned workman as well as of the sponsoring union that the concerned workmen were engaged to perform the job of tyndal, naturally onus absolutely rests on the sponsoring union to establish this fact. I find no hesitation to say considering all the relevant materials on record that the sponsoring union lamentably failed to establish such claim. It is further claim of the sponsoring union that the concerned workman worked under the management from 1986-87 till 2-2-92 continuously and during this period they put attendance of more than 190 days in each year. To this effect also the sponsoring union have failed to produce a single scrap of paper. Issuance of notice under Sec. 25-F comes in if it is established that the concerned workmen continuously worked in the underground for more than 190 days in each year under the management. To establish this fact onus was also on the sponsoring union to prove. But I find no hesitation to say that excepting certain slips, marked as Exts. W-1 series, they have failed to produce any such material documents relying to which authenticity of their claims could be substantiated. It is seen that WW-1 with a view to establish their claim deposed not correctly before this Tribunal. They claim that they were directly engaged by the management and being employees of the management they worked continuously for such a long period. The report of the L.E.O. (C) as well as judgement passed by the learned Magistrate speaks contrary to such claims of the workmen.

Accordingly, after careful consideration of all the facts discussed above, I hold that the sponsoring union have lamentably failed to establish that the concerned workmen ever worked continuously from 1986-87 till they were stopped from work on 2-2-92 and for which there is no scope to say that they are to be considered as workmen as per definition of Sec. 2(s) of the I.D. Act and accordingly the question of their retrenchment under Sec. 2(oo) by the management did not arise and for which they are not entitled to get any relief in view of the provisions laid down under Sec. 25-F of the Industrial Disputes Act.

6. In the result, the following award is rendered—

The demand of the Bihar Janta Khan Mazdoor Sangh for employment of Shri Pawan Kumar Singh and 21 others as Tyndals in Katras Choitudih Colliery of M/s. B.C.C.L. is not justified. Consequently, the concerned workmen are not entitled to get any relief.

B. BISWAS, Presiding Officer

नई दिल्ली, 12 अगस्त, 2004

का.आ. 2219.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-II के पंचाट (संदर्भ संख्या 223/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2004 को प्राप्त हुआ था।

[सं० एल-20012/482/98-आई.आर. (सी-I)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th August, 2004

S.O. 2219.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 223/99) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to management of BCCL and their workman, which was received by the Central Government on 10-8-04.

[No. L-20012/482/98-IR (C-I)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 2, AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 223 of 1999

PARTIES : Employers in relation to the management of M/s. B.C.C.L. and their workman

APPEARANCES:

On behalf of the workman	: Mr. S.C. Gaur, Advocate.
On behalf of the employers	: Mr. H. Nath, Advocate.
State : Jharkhand	Industry : Coal

Dated, Dhanbad, the 16th July, 2004

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/482/98-IR(C-I), dated, the 4th June, 1999.

SCHEDULE

" Whether the action of the management of P.B. Project of M/s. BCCL in not correcting the date of birth of Sh. Shivjee Mishra, Driver of P.B. Project of M/s. BCCL as 2-2-45 as per Ex-Serviceman I. Card is justified? If not, to what relief the concerned workman is entitled? "

2. The case of the concerned workman according to Written Statement submitted by the sponsoring Union on his behalf in brief is as follows :—

They submitted that the concerned workman who was an ex-serviceman got his appointment as Heavy Vehicle Driver in Cat. V. under the management on 7-2-81. Before issuing the order of appointment management scrutinised all papers issued by the Ministry of Defence. They submitted that as per record issued by the department, Ministry of Defence his date of birth was recorded as 2-2-1945 and that date of birth was very much within the knowledge of the present management but in the year 1987 they recorded his date of birth as 2-2-1942 wrongly in the service excerpt issued to him. Immediately the concerned workman brought the matter to the notice of the management with request to correct his date of birth recorded in his service excerpt given to him but with utter surprise management did not take any step for rectification of his date of birth as per certificate issued by his department, Ministry of Defence without assigning any reason as per policy decision of JBCCI 1976, introduced in 1988 which was given effect to all over coal industry. The concerned workman thereafter submitted several representation to the management with request to rectifiy his date of birth as 2-2-45 instead of 2-2-42 as per discharge certificate issued by the previous department, Ministry of Defence but did not yield any result which compelled him to raise industrial dispute through sponsoring union for conciliation but as the said conciliation proceeding ended in failure instant reference case has come up for adjudication by this Tribunal.

The sponsoring union accordingly, submitted prayer on behalf of the concerned workman to pass award directing the management to rectify the date of birth of the concerned workman as 2-2-45 as per ex-serviceman discharge cum I.D. card along with other consequential reliefs.

3. The management on the contrary after filing written statement-cum-rejoinder have denied all the claim an allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workman. They submitted that the concerned workman got his appointment on 7-2-81 under the management and at that time he declared his date of birth as 2-2-42 which was not only recorded in the Form B Register but also the concerned workman signed the same acknowledging correctness of the entry made therein. Again in the year 1987 they issued service excerpt to him wherein also his date of birth was recorded as 2-2-42 and the concerned workman without raising any objection relating to correctness of that entry returned back the same to them.

They submitted that the concerned workman raised the present dispute for correction of his date of birth at the fag end of his retirement relying on the I.D. Card issued to him by his ex-employer. Inspite of claiming so he failed to give any proof in support of his date of birth by producing any educational certificate as admissible under the company's rule or any other documents as per the service rule of the company. Accordingly, it was not possible to accede to his demand and for which he is not entitled to get any relief in view of his prayer.

4. **POINTS TO BE DECIDED**

"Whether the action of the management of P.B. Project of M/s. BCCL in not correcting the date of birth of Sh. Shivjee Mishra, Driver of P.B. Project of M/s. BCCL as 2-2-45 as per Ex-Serviceman I. Card is justified ? If not, to what relief the concerned workman is entitled?"

5. **FINDING WITH REASONS**

It transpires from the record that the sponsoring Union with a view to substantiate their claim examined the concerned workman as WW-1. Management on the contrary did not consider necessary to adduce evidence on their part with a view to substantiate their claim.

Considering the facts disclosed in the pleading of both sides and also considering evidence of WW-1 there is no dispute to hold that the concerned workman got his appointment as Heavy vehicle Driver in Cat. V on 7-2-1981 being an ex-serviceman under the management. The contention of the concerned workman is that according to certificate and Identity card issued by the Defence authority and District Soldier Board his date of birth was 2-2-45. He submitted that management being satisfied with the certificate and I.D. card issued by the Defence Authority issued his letter of appointment as Heavy Vehicle Driver. He disclosed that in the year 1987 when management issued service exerpt to him for his comments he came to know that his date of birth was recorded as 2-2-42 instead of 2-2-45 which was recorded in the papers issued by the Defence Authority. Accordingly after rectifying his date of birth in the service excerpt as 2-2-45 instead of 2-2-42 re-submitted the same to the management for rectification of his date of birth recorded already in the registers of the management. He alleged that inspite of receiving the same, the management did not consider necessary to rectify his date of birth in the statutory register. Thereafter, he submitted different representations to the management on the same ground but did not yield any result. In course of evidence the concerned workman produced his Identity card and certificate issued by the Defene Authority marked as Ext. W-1 to W-2 respectively. Considering these two certificates and I.D. card I find no dispute to hold that the concerned workman was an ex-serviceman and his date of birth as per papers maintained by the Defence authority was 2-2-45. This witness during his evidence disclosed that as he got his appointment directly being Heavy Vehicle driver Cat. V management scrutinised his certificates and I.D. card issued by the Defence Authority but instead of recording his correct date of birth as per those documents recorded wrong date of birth in their register and for which they are liable to rectify the same. On the contrary contention of the management is that date of birth of the concerned workman in the Form B Register was recorded as 2-2-42 as per his statement and he accepted correctness of that entry by putting his signature therein. They disclosed that as Form B Register is a Statutory Register all entries recorded therein are binding upon both sides and for which his claim cannot be entertained at all. It has been further submitted by the management that in the year 1987 service excerpt was given to the concerned workman showing his date of birth as 2-2-42. He returned back the same without his comments to the effect that date of birth recorded therein was wrong. The third allegation of the management is that as per recruitment norms of the management the concerned workman even after raising dispute did not submit any authentic document viz. educational certificate etc. to show that his date of birth was 2-2-42 and not 2-2-45. Lastly they submitted that at the fag end of his service the concerned workman has raised this dispute which cannot be entertained at all.

It is seen that management inspite of getting ample opportunity did not consider necessary to produce the Form B Register before this Tribunal to show that date of birth of the concerned workman therein was recorded as 2-2-42 within his full knowledge. They also did not consider necessary to produce the original service excerpt which was returned to them after being signed by the concerned workman to show that without raising any dispute relating to his date of birth recorded therein he returned back the same. On the contrary from the evidence of the concerned workman it transpires clearly that immediately after receipt of the service excerpt he raised his voice over wrong recording of his date of birth in the service excerpt. In course of hearing the management have failed to submit any paper to counter act such claim. It is admitted fact that the concerned workman got his appointment as Heavy Vehicle Driver Cat. V. as Ex-Serviceman. It is the contention of the concerned workman that before his selection management scrutinised all the documents relating to his defence services recorded in the certificate issued by the Defence Authority. This fact has not been denied by the management obviously on the ground that the concerned workman claimed his appointment as ex-serviceman candidates and not as general candidate. No evidence on the part of the management is forthcoming before this Tribunal contrary to the claim of the concerned workman that he was not an ex-serviceman and did not get his appointment as Heavy Vehicle Driver being an Ex-Serviceman.

As per Coal Wage Agreement No. III Implementation Instruction No. 76 in clause A(III) relating to determination of age at the time of appointment it has been clearly mentioned. "In the case of Ex-Serviceman who are not matriculates, the date of birth recorded in the Army Discharge Certificate shall be treated as correct date of birth and the same will not be altered under any circumstances. In the case of Ex-servicemen who have passed Matriculation examination before entering the Defence Services; otherwise the date of birth recorded in Army Discharge Certificates will be taken as correct date of birth".

Therefore, as per this circular which is absolutely binding in the administration of all collieries the age of an ex-serviceman should be recorded in the Statutory Register as per age recorded in the Army Discharge Certificate. It is clearly evident from the Army Discharge Certificate produced by the concerned workman (Ext. W-2) that his date of birth was recorded as 2-2-45. Therefore as per JBCCI circular No. 76 it was the bounden duty of the management to record date of birth of the concerned workman in the Statutory Register as 2-2-45 but instead it was recorded as 2-2-42. It is the contention of the management that as per statement of the concerned workman it was so recorded. The plea taken by the management is far from satisfactory in view of my discussion above. However, to substantiate this claim onus was absolutely on the management but inspite of getting sufficient opportunity they did not consider necessary to produce a single scrap of paper. As such there is sufficient reason to believe that without giving any importance to the certificate issued by the Defence Service Authority they arbitrarily recorded the age of the concerned workman in the Form B Register as 2-2-42 instead of 2-2-45. Management in their written statement have taken plea that the concerned workman in support of his claim could produce any educational certificate. This plea taken by them is not at all tenable as clause A(III) of the JBCCI circular which I have quoted above has made it clear how date of birth of an ex-serviceman who has got his appointment will be calculated.

I, therefore, hold that the management, arbitrarily, illegally and violating the principle of natural justice ignored the claim of the concerned workman in the matter of rectification of his date of birth as per certificate issued by the Defence Services Authority knowing fully well that he got his appointment as Heavy Vehicle Driver being an Ex-Serviceman.

For such arbitrary and illegal decision the management issued order of his superannuation long before his due date of superannuation and thereby deprived him from rendering his service atleast for three years and as a result he was deprived of financial benefit totally during the period in question. I, therefore, hold that such illegal order of superannuation from service of the concerned workman is liable to be revoked. In the result, the following Award is rendered:—

> "The action of the management of P.B. Project of M/s. BCCL in not correcting the date of birth of Shri Shevjee Mishra, Driver of P.B. Project of M/s. BCCL as 2-2-45 as per Ex-Serviceman I. Card is not justified. Consequently, the concerned workman is entitled to be reinstated in service with full back wages and other consequential benefits with effect from the date of his superannuation considering his date of birth as 2-2-42 instead of his actual date of birth as 2-2-45."

Management is directed to implement the Award within one month from the date of its publication in the Gazette of India in the light of the observation made above.

B. BISWAS, Presiding Officer

नई दिल्ली, 12 अगस्त, 2004

का.आ. 2220.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-II (संदर्भ संख्या154/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2004 को प्राप्त हुआ था।

[सं० एल-20012/92/98-आई.आर. (सी-I)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th August, 2004

S.O. 2220.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 154/97) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 10-8-04.

[No: L-20012/92/98-IR (C-I)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT (NO. 2), DHANBAD

(LOK ADALAT)

In the matter of an Industrial Dispute U/s. 10 (1) (d) of the I. D. Act, 1947

Reference No. 154 of 1997.

PARTIES : Employers in relation to the management of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman	:	Mr. S.C. Gaur, Advocate.
On behalf of the employers	:	Mr. D. K. Verma Advocate.

State : Jharkhand. Industry : Coal

Dated Dhanbad, the 19th July, 2004

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/92/98-IR(C-I), dated, the 27-1-99/4-3-99.

SCHEDULE

> "Whether the action of the management of BCCL in dismissing Sri Bhagirath Das, is justified? If not, to what relief the workman is entitled to ?"

2. In response to appeal made by this Tribunal for disposing of this case through Lok Adalat management and representative of the workman filed a settlement petition

for settling the dispute through Lok Adalat as per terms and conditions stated therein. Perused the petition of settlement. Terms and condition incorporated in the said settlement petition appears to be fair, proper and in accordance with the principle of natural justice. Accordingly the same is accepted. In view of the facts and circumstances discussed above instant case is disposed through Lok Adalat as per settlement and an Award is passed in terms of settlement entered into between the parties.

B. BISWAS, Presiding Officer

ANNEXURE

Memorandum of settlement arrived at between the management of Kusunda Area & the workman Sri Bhagirath Dass, Ex. Miner Loader, Pers. No. 02523355 Dhansar/ Industry Colliery and Union (JMS)

Management Side	**Workman Side**
1. Shri R. Kumar, Dy. C.P.M., Kusunda Area	1. Representativew of Union (JMS)
2. Shri H. Kishore, Personnel Manager, Kusunda Area	2. Shri Bhagirath Das Ex. Miner Loader, Dhansar/Ind. Colliery Pers. No.
3. Shri B. Pandey, Personnel Manager, Dhansar/Ind. Colliery	

Short Recital of the case :

Shri Bhagirath Das, Ex. Miner Loader of Dhansar/ Industry Colliery was dismissed from the services of the Company u/s. 28 of the certified standing order by which the service condition of the concerned workman is governed. His dismissal was approved by the competent Authority. In this connection Janta Mazdoor Sangh raised an Industrial dispute before the ALC(C), Dhanbad. The matter could not be resolved during course of conciliation so the conciliation ended in failure. The FOC report was sent to Ministry and Ministry has referred this matter for adjudication to CGIT No. 2 vide reference No. 154/99. The matter is still pending before the tribunal.

In the meantime on the basis of the representation made by Shri Bhagirath Das, the competent Authority has approved the reinstatement of Shri Das on the roll of the company vide letter No. BCCL : PER : IR : REINSTATEMENT : 2003/4450, dated 30-06-2003 on the following terms :

Terms and conditions :

1. If Shri Bhagirath Das found medically fit by the Area Medical Board to perform his job.
2. If he has not attained the age of superannuation.
3. If he accepts the job of Miner Loader at Dhansar Colliery.
4. If he has not withdrawn PF and Gratuity.
5. If undertakings to perform his duty with sincerity devotion and loyalty for the best interest of the company and does not indulge in any indulge and riotious behaviour.
6. Provided his identity is established in reference to the Company's records.
7. He shall not be entitled for any wages and he was not claimed anything for the period of his dismissal and subsequent reinstatement. The intervening period of dismissal shall be construed as die non.
8. He shall be entitled for increment after satisfactory completion of one year of service after reinstatement.
9. His continuity of service shall be taken for the purpose of gratuity only not in other benefit.
10. He shall submit in writing that he will render himself for stern disciplinary action as per gravity of the case in terms of certified standing order of the company as applicable in case of contempt of misconduct.
11. He shall abide by the coal Mines pension scheme, 1998 and contribution in this connection.

The copy of the settlement will be filed before the tribunal and tribunal will be requested to pass an award on the basis of the above terms which will be finding upon both of the party.

For Management Side	**For Workman Side**
1. Shri R. Kumar, Dy. C.P.M., Kusunda Area	1. Yogendra Pratap Singh General Secy. Janta Mazdoor Sangh
2. Shri H. Kishore, Personnel Manager, Kusunda Area	2. Bhagirath Das Ex-Miner Loader Pers. No. 0252355 Dhansar/Ind. Colliery
3. Shri B. Pandey, Personnel Manager, Dhansar/Ind. Colliery	

Witness :

1. Sd/-
2. Sd/-

नई दिल्ली, 12 अगस्त, 2004

का.आ. 2221.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-II के पंचाट (संदर्भ संख्या 74/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2004 को प्राप्त हुआ था।

[सं० एल.-20012/378/2000-आईआर (सी-I)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th August, 2004

S.O. 2221.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 74/2001) of the Central Government Industrial Tribunal/Labour Court, Dhanbad II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 10-8-2004.

[No. L-20012/378/2000-IR (C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:
Shri B. Biswas
Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I. D. Act., 1947.

REFERENCE NO. 74 OF 2001

PARTIES: Employers in relation to the management of M/s. BCCL and their workman.

Appearances:

On behalf of the workman : Mr. P. N. Singh, Advocate

On behalf of the employers : Mr. R. N. Ganguly, Advocate.

Dated, Dhanbad, the 26th July, 2004.

AWARD

1. The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/378/2000 (C-I), dated, the 2-3-2001.

SCHEDULE

"Whether the demand of the Janta Shramik Sangh that Shri Bishundeo Bhuiya, Son-in-law of Smt. Sakil Buini may be given employment under VRS(F) Scheme is just and proper ? If so, to what relief is the said dependent of the workman concerned entitled ?"

2. The case of the concerned workman according to W.S. submitted by the sponsoring union on her behalf in brief is as follows :—

The sponsoring Union submitted that Smt. Sakil Bhuini was a permanent workman at Simlabahal colliery. They submitted that with an intention to boost up the production management took a decision to remove female workmen and in their place to engage their male dependant launched a scheme under the name and style V. R. Scheme to provide employment of the dependant of the female workers subject to terms and conditions disclosed in the scheme. They submitted that the concerned workman in response to that scheme launched by the management submitted her application for voluntary retirement with a view to provide employment to her son-in-law Bishundeo Bhuiya. They submitted that management though accepted her voluntary resignation for the employment of her son-in-law but unfortunately did not provide employment to him without assigning any reason. Accordingly the concerned workman as well as the sponsoring union submitted representation to the management with an appeal to provide employment to the son-in-law but without any effect and for which they raised an industrial dispute before the ALC(C), Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudcation. They alleged that the action of the management of not providing employment to the son-in-law of Smt. Sakil Bhuini was illegal, arbitrary and against the principles of natural justice. Accordingly they submitted prayer to pass award directing the management to provide employment to the son-in-law of Sakil Bhuini with retrospective effect, with other consequential benefit.

3. Management on the contrary after filling W. S. - cum-rejoinder have denied all the claims and allegation which the sponsoring union asserted in the W. S. submitted on behalf of the concerned workman. They submitted that the concerned workman Smt. Sakil Bhuini was a permanent employee of Simlabahal colliery under Kustore Area. They disclosed that in the year 1995 a Special Voluntary Retirement Scheme for the female employees of the management was introduced for generating a productive labour force against such female employees who were not being gainfully employed. As per the provision of the said scheme female employees may be retired in favour of major son above the age of 18 years but upper age fixed was 35 years. They further submitted that the said scheme was launched only to provide employment to the dependent

son of retired female employees and not to son-in law or any other relative. As the said scheme did not provide employment of the son-in-law question of employment of the son-in-law of the concerned workman did not arise. Moreover, it was prerogative of the management to accept or to reject any application under Voluntary Retirement Scheme (F) without assigning any reason as per the scheme. In view of the facts stated above management submitted that the concerned workman is not entitled to get any relief and for which they submitted to pass an Award rejecting the claim of the concerned workman.

4. **POINTS TO BE DECIDED**

"Whether the demand of the Janta Shramik Sangh that Shri Bishundeo Bhuiya, Son-in-law of Smt. Sakil Bhuini may be given employment under VRS(F) Scheme is just and proper ? If so, to what relief is the said dependant of the workman concerned entitled ?"

5. **FINDINGS WITH REASONS**

It transpires from the record that the sponsoring Union with a view to substantiate their claim examined the concerned workman as WW-1 while the management also with a view to substantiate their claim examined one witness as MW-1.

6. Considering the fact disclosed in the pleadings of both sides and also considering the evidence of WW-1 and MW-1, I find no dispute to hold that the concerned workman Sakil Bhuinf was Permanent coal carrying mazdoor under the management. It is also admitted fact that the management launched a V. R. Scheme (F) in the year 1995 for the female employees for generating a productive labour force against such female employees who are not gainfully employed. The concerned workman i.e. WW-1 during her evidence disclosed that in response to that scheme she submitted petition for V. R. Scheme for employment of her son-in-law Bishundeo Bhuiya in her place. She admitted that she did not claim employment for her son. She alleged that neither her application for Voluntary Retirement was accepted by the management nor the management provided employment to her son-in-law. During her cross-examination she admitted that she retired from her service on attaining the age of 60 years in the year 2001. MW-1 on the contrary admitted the fact of launching Voluntary Retirement Scheme for female employees submitted that the said scheme was launched by the management in 1995. He submitted further that as per the said scheme only son of female workers considered for employment in place of female workers whose voluntary retirement is to be accepted by the management. Voluntary Retirement Scheme which was launched by the management during 1995 in course of his evidence was marked as Ext. M-1. As per the said scheme any permanent female employee except Nurses and Essential Staff whether she is in Time rated or Piece rated below the age of 58 years at the time of making application may opt to retire voluntarily under the scheme. Further a female as per the said scheme may retire in favour of his major son and upper age limit will be 35 years or below. The question of providing employment to the dependant will be considered only after a physical endurance test i.e. Trade Test to ascertain his fitness to work as Minor/Loader. Moreover, he must be declared medically fit. As per the said scheme only retirement of the female employees will be accepted if the conditions referred to above are fulfilled. Moreover, MW-1 submitted that option was with the management if such application will be accepted or rejected and if employment will be given to the dependent without assigning any reason or not. Subsequently the said scheme for Voluntary retirement of female worker was enhanced for two years and the order to that effect was marked as Ext. M-2. This witness disclosed that the concerned workman though submitted her prayer for Voluntary retirement under the scheme was not considered by the management as she was superannuated by the management on 31-12-2001. It is seen that against that order of the management they raised an industrial dispute before the ALC(C), Dhanbad and Dy. C.P.M. Kustore Area in response to letter issued by the ALC(C) Dhanbad in relation to that dispute submitted a letter intimating the reason why the claim of the concerned workman could not be entertained. The said reply given to the ALC(C) by Dy. C.P.M. Kustore Area during evidence of MW-1 was marked as Ext. M-4 considering this letter it transpires that in response to the Voluntary Retirement Scheme launched by the management in the year 1995 the concerned workman submitted her application for voluntary retirement with a view to provide employment to her son-in-law. They submitted in the said letter that the said scheme was launched exclusively for providing employment of the son who was dependant on the female worker and not applicable to any other person. Intimating this fact they submitted that as the demand for employment of son-in-law of the concerned workman was against the provision of Special Voluntary Retirement Scheme(F) the said application could not be accepted. I have already discussed above that under the said Voluntary Retirement Scheme launched in the year 1995 management made provision for employment of the son who was dependant on the said female worker. It is evident from the said scheme Ext. M-1 that there was no provision for employment of the son-in-law or any other person who was dependant on the female workman. There is no dispute to hold that the concerned workman submitted application for voluntary retirement scheme but she nominated her son-in-law for his employment in her place though according to the said schme there was no provision for employment of son-in-law. Management could not consider such application and accordingly it was rejected. It is the contention of the sponsoring union that previous to that scheme in the year 1992 management launched another Voluntary Retirement Scheme wherein there was provision for providing employment of son-in-law who was dependent on the

female worker. Learned Advocate for the management submitted that they are not concerned with the scheme of 1992 but with the special V. R. Scheme for 1995 and accordingly they cannot go beyond the said scheme. Learned Advocate for the management submitted that knowing fully well of the provision as laid down in the said scheme of 1995. She submitted her application nominating her son-in-law for his employment which appears to be against the provision of that scheme. It is seen from the evidence of MW-1 that the concerned workman nominated the name of her son-in-law as her son was already in employment.It is the allegation of the sponsoring Union that the management illegally, arbitrarily and violating the principles of natural justice did not consider such prayer of the concerned workman. During evidence it transpires, in support of such allegation the sponsoring union have failed to adduce any evidence on the contrary from the evidence of WW-1 it transpires clearly that she rendered her service till attaining the age of her 60 years and there after got her superannuation from the service. Therefore, there is no scope to say that the concerned workman was removed from the service on the basis of her application under the said scheme without getting any benefit. It is seen that she rendered her service at full length and thereafter she superannuated from her service. Management categorically assigned the reason why and under which circumstance her application for V.R. could not be accepted, To retract the claim of the management which based on the terms and conditions of V.R. Scheme the sponsoring Union has failed to produce any cogent evidence. From the scheme itself it transpires clearly that rejection of the prayer for voluntary retirement and employment of the dependant was absolutely under discretion of the management and in the instant case management assigning reason rejected the claim of the concerned workman. Accordingly after careful considration of all the facts and circumstances I hold that when a scheme was launched it was expected that abiding by the terms and conditions as a laid down in the said scheme the workmen should come forward and submit application for consideration. Here it is clear that the concerned workman ignoring the terms and conditions laid down in the scheme submitted her application for voluntary retirement nominating the name of her son-in-law for his employment. As there is no provision in the said scheme for employment of the son-in-law the management rejected the claim of the concerned workman. I do not find any reason to hold that the management committed any illegality in rejecting the prayer of the concerned workman. Accordingly there is no scope to say that the decision of the management was arbitrary and against the principles of natural justice and for which the concerned workman is not entitled to get any benefit. In the result, the following Award is rendered :—

"The demand of the Janta Shramik Sangh that Shri Bishundeo Bhuiya, Son-in-law of Smt. Sakil Bhuini may be given employment under VRS(F) Scheme is not just and proper. Consequently, the dependant of Sakil Bhuini is not entitled to get any relief."

B. BISWAS, Presiding Officer.

नई दिल्ली, 12 अगस्त, 2004

का.आ. 2222.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन एअरलाइंस लि० के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नई दिल्ली-I के पंचाट (संदर्भ संख्या 15/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2004 को प्राप्त हुआ था।

[सं० एल-11012/74/2001-आईआर (सी-I)]

एन० पी० केशवन, डैस्क अधिकारी

New Delhi, the 12th August, 2004

S.O. 2222.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 15/2002) of the Central Government Industrial Tribunal/Labour Court, New Delhi-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Airlines Ltd. and their workmen, which was received by the Central Government on 10-8-2004.

[No. L-11012/74/2001-IR (C-I)]

N. P. KESAVAN, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT : NEW DELHI

Presiding Officer : Shri S.S. Bal

I.D. NO. 15/2002

In the matter of dispute between :

Mrs. Poonam Mohan S/o Shri Surender Mohan
R/o 16/202, East End Apartments,
Mayur Vihar, Phase-I Ext.
Delhi-110096. .... Workman

Versus

The Regional Director,
Northern Region,
Indian Airlines, Ltd.,
I.G.I. Airport, New Delhi-110037.

2. The General Manager (Personnel)
Personnel Department
Indian Airlines Limited,
I.G.I. Airport, New Delhi-110037 ....Management

APPEARANCES : Mrs. Poonam Mohan in person.

Shri Praveen Sharma with Sh. A.K. Goel for Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-11012/74/2001 IR (C.I) dated 28-2-02 has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the action of the management of Indian Airlines Ltd., I.G. I. Airport, New Delhi in removing Mrs. Poonam Mohan, Traffic Supdt. S. No. 216607 from service w.e.f. 31-10-2000 is justified and legal? If not, to what relief is the workman entitled?"

2. Briefly stated the facts of the case are that the applicant claimant is the permanent employee of the Indian Airlines Limited since her joining on 23-4-84. Her husband Surender Mohan Officer with the Indian Overseas Bank was selected for Overseas posting for a period of 3 years. The applicant also applied for extraordinary leave on loss of pay to accompany her husband but she was declined leave after 16-6-97 and her leave was treated as unauthorised absence. She tried to convince the employer and applied for transfer to Singapore Office but of no use. She was issued charge sheets for unauthorised absence and was awarded punishment of reduction to the minimum of the pay scale with cumulative effect. She appealed against the said decision but of no use. She also requested to give more time to attend the enquiry. Further enquiry was also conducted and she was awarded punishment of removal from I.A.L. *vide* Regional Directors Letter dated 31-10-2000 alongwith a cheque of Rs. 11361/-. She further claimed that her record of service has been very good throughout after joining. She was not afforded any personal hearing before passing aforesaid orders and including order of reduction of pay scale etc. have been passed in violation of principles of natural justice.

2. The management initially contested the case by filing reply denying averments made in claim statement and averred that the claimant applicant remained unauthorisedly absent for a considerable long time and she did not join the service despite requests and orders of reduction of pay as well as removal of service are justified and were passed after complying with the previsions of law and relevant rules and principles of natural justice.

3. The evidence of the workman and the management were recorded and before final arguments parties filed agreement dated 7-5-2004 Ex. P1 according to which the workman was allowed to join service of the respondent Indian Air Lines with accruing benefits mentioned therein and both the parties made a joint statement that workman arrived at a compromise with the management vide Ex. P-1 and she has joined the service as such no dispute remains between the parties and requested to pass no dispute award. In view of the above no dispute award as passed in terms of the agreement Ex. P1 entered into between the workman and the management.

S.S. BAL, Presiding Officer

Dated : 30-7-04.

नई दिल्ली, 12 अगस्त, 2004

का.आ. 2223.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एअर इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II नई दिल्ली के पंचाट (संदर्भ संख्या 23/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2004 को प्राप्त हुआ था।

[सं० एल-20030/24/95-आईआर (सी-1)]

एन० पी० केशवन, डैस्क अधिकारी

New Delhi, the 12th August, 2004

S.O. 2223.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/97) of the Central Government Industrial Tribunal/Labour Court, New Delhi-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air India and their workman, which was received by the Central Government on 10-8-2004.

[No. L-20030/24/95-IR (C-1)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE NEW DELHI

I.D. NO. 23/97

Presiding Officer : R. N. Rai.

In the Matter of :—

G.V. Sharma

VERSUS

Air India

AWARD

THE Ministry of Labour by its letter No. L-20030(24)/95-IR (C-1) Central Government Dt. 09-01-1997 has referred the following point for adjudication.

The point runs as hereunder :—

"Whether the action of the Management of Air India in removing from service Shri G.V. Sharma, Junior Operator w.e.f. 26-12-1989 is legal and justified. If not, to what relief the said workman is entitled".

The claimant has filed statement of claim. In his statement of claim, he has submitted that he was appointed as a Junior Operator (Trainee) in the Ground Services Department at Delhi w.e.f. 14-09-1979 on the terms and conditions mentioned in the letter No. DLP/JOT/GVS/6306 dt. 11-09-1979 and after training period was over, he was appointed as Junior Operator *vide* letter dt. 3-6-1980. He was appointed as Junior Operator on probationary basis for six months w.e.f. 15-10-1980 at Delhi. He worked very satisfactorily and after completion of the probation period, he was appointed on the confirmed post. It has been further submitted that some employees of the department were annoyed with him and they wanted to punish him so he was transferred under the shift of Mr. P.N. Sinha in 1989 and thereafter the workman was suspended and charge sheeted for the following charges *vide* letters dt. 18-05-1989 and 25-5-1989.

(a) Drunkenness whilst on duty.

(b) Causing damage to the equipment belonging to the corporation.

The Enquiry Committee was constituted. Shri M.L. Bhowmik, Asstt. Admn. Officer was appointed member of the enquiry committee and Shri V.K. Gupta as Convener. Both the officers were very close to Mr. P.N. Sinha.

It is further pertinent to mention here that the workman was not given the statement of witnesses as well as their statement prior to enquiry and as such the workman could not prepare his case before hand. It has been further submitted that the documents to be relied upon during the course of enquiry were not provided to him. The enquiry was only eye wash to punish the workman applicant. There is absolutely no evidence to prove the charges levelled against the applicant but the charges were *malafide* and motivated one, the enquiry was an eye wash, so the Enquiry Committee submitted the report against the workman and the Disciplinary Committee accepted the same and *vide* order dated 26-12-1989 removed him from service which was beyond its power.

That it has been further submitted that he was not given the findings of the enquiry report and he was given no hearing. The Deputy Director Ground Services awarded him punishment of removal from service without giving any personal hearing to him and the Appellate Authority did not also consider the entire evidence on record. As such, the principles, of natural justice have not been followed. The workman was never in drunken state. The breathalyzer test was falsely conducted. Nobody saw the reading of the machine but the Doctor read out the reading and it was reduced to writing. No witness during the enquiry or in the Court has deposed that he saw the reading on the machine. It has been further submitted that Shri Sheetal Prasad, S.K. Sharma, M.L. Raghuraman, Ashok Kumar, Daljeet Singh, H.L. Meena, R.C. Tewari etc. were also found guilty of the same charges but they were not suspended and they were not removed from service.

It has been further stated that Shri V.K. Gupta, who was the convener of the enquiry committee was himself charge sheeted person and it is only he who has deposed in the Court.

The management has filed written statement. In the written statement, it has been stated that on 17th May, 1989, he was found drunk while on duty and he caused damage to the property of the management. The breathalyzer, test was conducted on him. It confirmed that he had consumed alcohol. Accordingly, he was charge sheeted for the above misconduct *vide* charge sheet dt. 25th of May, 1989. Subsequently an enquiry was conducted to enquire into the charges levelled against him and the enquiry was conducted in conformity with the principles of natural justice. He was given full opportunity to defend himself.

It has been further submitted that there is delay of 7 to 8 years and the claim should be rejected on the point of delay alone. He has levelled serious and baseless allegations against the officers of the department. In the statement of claim, some previous conduct of the workman applicant has been narrated but I am not reproducing the same since that matter is not at issue and this Tribunal has to reply the reference which has been sent for adjudication.

That the claimant has filed rejoinder and it has been stated in the rejoinder that he has been punished on the pre-planned scheme of the management and those persons with whom he had not good relations were made the Enquiry Officer and the Convener. The enquiry committee was not properly constituted and the competent authority has neither issued the charge sheet nor constituted the enquiry committee and there is no evidence on the record that he was found in a drunken stage. The enquiry officer has not mentioned the entire evidence that has come on record during the enquiry proceedings.

Heard arguments from both the sides and perused the papers on the record. It is pertinent to mention that the

management has examined Shri V.K. Gupta in support of the enquiry and he has been cross-examined by the workman applicant. The workman applicant has also given affidavit and he has been cross-examined by the learned counsel of the management. As such, both the parties have adduced evidence in support of the enquiry proceedings or otherwise in the Tribunal also and fairness of enquiry was not pressed as an preliminary issue since the entire oral evidence has been recorded in respect of the enquiry and it was not pressed that the fairness of enquiry should be decided as a preliminary issue. As such, the evidence adduced in the proceedings of the Tribunal and the enquiry are considered together and no finding is given on the fairness of the enquiry as this preliminary issue was not pressed. It was submitted from the side of the workman that the findigs of the enquiry officer are not tenable on factual ground as well as on the legal ground. There are two aspects to ascertain the fairness of the enquiry. The first aspect is that whether the workman applicant was drunken while on duty. It was submitted from the side of the workman that Mr. U.R. Sharma and Mr. Brij Mohan have deposed as preliminary witnesses but when the charge sheet was issued, these papers were not made available to the workman applicant. He had not admitted the charges categorically and unambiguously. As such, the enquiry was conducted to prove the charges levelled against him. It was further submitted from the side of the workman that in his cross-examination in enquiry proceedings, Mr. Chanakya has categorically admitted that he was not found drunken but he appeared tense. The second witness Shri U.R. Sharma is also of the same view. He has admitted in his cross-examination during the proceedings of enquiry that the workman applicant appeared to be very deep and tense. Since the incident has happened, it is quite natural that the workman applicant would appear disturbed that is why these two witnesses deposed that he looked quite tense and upset. The other witness Mr. Manoj Pabrai is the doctor who has conducted the breathalyzer test. True copies of enquiry have been filed but the original enquiry papers have not been filed. From perusal of both the enquiries, it appears that Doctor Manoj Pabrai has put his signatures after his examination in chief but in the other copy, at the place of his signature, sd/- has been written. It was submitted that the enquiry papers have been subsequently changed and his statement was recorded in his absence but when it was noticed that he has not put his signatures, his signature was obtained and another photocopy was filed with the court and despite demands, the original has not been produced for the perusal of the court. As such, it is doubtful whether the doctor was present at the time of his examination in chief or not as in one copy of the enquiry proceedings, he has put his signature after the cross-examination and in the other copy of the proceedings, he has not put his signature but sd/- has been written. As such, it was submitted that the examination in chief of the doctor has become doubtful. Another witness produced during the course of enquiry was Mr. Brij Mohan. He has stated in his cross-examination that he did not see the reading himself but the doctor read out the readings and it was reduced to writing so none of the witnesses had seen the machine on which breathalyzer test was conducted. The Doctor himself saw the reading and he read out and that reduced to writing. He was a part time doctor and so he was won over.

It is further submitted that there are interpolations and cuttings in the breathalyzer report. I have perused the paper. There is cutting at one place and it appears to have been interpolated and there is cutting regarding timing also and there is no opinion of the doctor that the workman applicant was under a drunken state. In this context, my attention was drawn to Parekh's book on medical jurisprudence. It has been specifically mentioned there that breathalyzer test is not a complete test. It is a test to ascertain whether there are symptoms of alcohol in the breath of the drunken person or not and it is not admissible in evidence. In the instant case, only breathalyzer test has been conducted and it has been mentioned in the Parekh's book that the machine should be free from alcohol and the doctor should give a certificate regarding the same that the machine is free from alcohol. It was submitted from the side of the workman applicant that the enquiry officer has fully relied on the evidence of the doctor and Mr. Brij Mohan but he has overlooked the evidence of Mr. Chanakya, Mr. U.R. Sharma and the defence witness. The defence witness has stated that he took the workman applicant to his house by Air bus and he was quite fit that night and he was not in a drunken state. His name is Md. Harun and he is an employee of Air India.

Mr. Chanakya has stated that the workman applicant complained of pain in his Shoulder but he completed one flight and the accident took place in the next Flight so according to Mr. Chanakya who was present there, the workman applicant had already complained a pain in his shoulder and the workman applicant has filed prescription of Air India Clinic and from that prescription, it appears that he was under treatment for almost three weeks prior to the incident and he was X-rayed by the doctor and he was given brugesic. The incident occurred on 17-5-1989 whereas the doctor has recommended pain killers on 10-05-1989 for one week. It was submitted that the pain in shoulder has been proved by the statement of Chanakya and medical prescription of the Air India Clinic and Mr Chanakya has deposed that while he completed the first flight he was not in a drunken state and he was not in a drunken state when the tractor dashed against the pillar. As such, the witness who was present at the spot has deposed that the workman applicant got down the tractor and only a king pin was broken. It is apparent from the Inspection Report that front king pin is broken, but Mr. P.N. Sinha has given other two statements that front portion was damaged and that

suspension was damaged. This shows that Mr. P.N. Sinha is an interested witness. At one place, he says that king pin was broken and the second place, he said that the front suspension was broken and at the third place, he said that the front portion was broken. It appears from the statement of Mr. Sinha that he was not present at the place of occurrence. Mr. Brij Mohan was certainly not present on the place of occurrence and none of the witnesses have seen the breathalyzer machine. As such, the finding of the enquiry officer that Brij Mohan Sinha and Doctor support the drunkenness of the workman applicant becomes doubtful in the light of the oral evidence of Mr. Chanakya and Mr. U.R. Sharma, and the defence witness Md. Harun. It was further submitted regarding the other aspect of the case that principles of natural justice have not been followed and my attention was drawn to 1070(I) SCC Page 108 and AIR 1973 SCC page 1321. It has been held in both the cases that only the disciplinary authority or any statutory authority is authorised to constitute the enquiry to serve charge sheet and to award major punishment of removal from service. It appears from the perusal of the charge sheet that no document has been mentioned and the name of no witness has been mentioned and statement recorded during preliminary investigation has not been provided to the workman applicant either at the time of calling for explanation or serving the charge sheet.

It was also submitted that according to rules a copy of the enquiry report should be given to the workman applicant. In this context, my attention was drawn to AIR 1991 SCC PAGE 471 AND SLR 1967 AND 1961 SC 1623 AND AIR 1974 SC PAGE 2335 AND AIR 1967 MP PAGE 215. I have perused the citations referred to above. It has been held that the CSE must be informed of the evidence on which the charges are sought to be established and it has been also held in the citations of the Hon'ble APEX Court that the copies of the findings of the Enquiry Officer should be provided to the CSE. It has also been held in AIR 1958 SCC PAGE 300 that the statements of the Preliminary investigation should be provided to the workman applicant so that he may defend himself. In this case, no paper and no name of the witness has been mentioned either in the charge sheet or in the order constituting enquiry or in the letter calling for explanation. It is during the course of enquiry that breathalyzer report was produced by the doctor. There is no signature of the doctor on page 9 and no signature of the workman. So it appears to have been changed.

It was further submitted by the workman that in the instant case, two suspension letters have been prepared. One is of one page and the other is of two pages. As such, there is manipulation in the suspension letter as well.

It was further submitted that Deputy Director, Ground Services is not the competent authority either to serve charge sheet or to constitute the enquiry or to award punishment. In the present case, Deputy Director has done all the three things but from perusal of Air India Service Regulations, 1982, it becomes quite obvious that Ground Controller is the competent authority and the Managing Director is the Appellate Authority. It was further contended that the management has admitted that prior to August, 1990, the Air India Service Regulations of 1982 was in force and was prevalent. It was not replaced by any other regulation. As such, it is admitted to both the parties that Air India Service Regulations, 1982 was in force during the course of entire enquiry and it was in force even after the enquiry. As such, the enquiry should be conducted according to the procedure prescribed in the said regulation of 1982. It is quite apparent from the perusal of the said regulation that Deputy Director is not the competent authority. Schedule-I mentions the cadre of the employee and the Competent Authority and the Appellate Authority. The Ground Conroller is the Competent Authority for the Ground Handling Department. It is quite clear from Sl. No. 10 page 55 that the Competent Authority and Appellate Authority in the matter of the workman applicant are the Controller Ground and Managing Director respectively. The workman applicant comes under 10(1) of the ground handling. As such, the Deputy Director, Ground Services is not the competent authority but Controller Ground Handling is the Competent Authority and Managing Director is the Appellate Authority. In the present case, the enquiry committee has been constituted by the Deputy Director. Charges have been served by the Deputy Director and punishment has also been awarded by the Deputy Director whereas it is quite clear from Schedule-I of the said regulation that the competent authority is the Controller Ground Handling and the Appellate Authority is the Managing Director. But in the instant case, punishment has been awarded by Deputy Director and it has been confirmed by the Deputy Managing Director so enquiry has been constituted, charge sheet has been served and punishment have been awarded by an officer who is not competent officer.

It has been further submitted that in chapter III, regulation 5 (1) page 60, it has been specifically mentioned that the competent authority shall appoint an enquiry committee to enquire into the charges and it has been further provided in para 6 that the authority competent under the regulation 43/B may pass order of punishment under regulation 43. Regulation 43 is regarding punishment and only the competent authority is empowered to award punishment of removal. Rule 43B provides that punishment enumerated in regulation 43 shall be exerciseable to the extent specified in schedule-I. The regulation 43-A provides that an authority competent to suspend an employee under regulations 43B may also place him under suspension. As such, according to the regulations, the suspension is invalid as it has not been ordered by the competent authority i.e. The Ground Controller. The Constitution of the Enquiry Committee is also invalid as the same has not been done by the competent authority. The charge sheet should have

been issued by the competent authority, as such the issuance of the charge sheet and suspension order and award of punishment have not been given by the Controller Grounds who is the competent authority. According to the first schedule Sl. No. 10(1), The Controller Ground Services is the competent authority for passing the major punishment of removal from service but it has not been done in this case. Deputy Director, Ground Services has passed all the orders but he is not the competent authority and no power has been delegated to him by the competent authority as it is not the case of the respondent management. As such, the enquiry appears to be *void, ab initio*. In this respect, my attention was drawn to AIR 1980 SC page 2054, AIR 1976 SC 2301, AIR 1984 AC. In all the citations, it has been held by the APEX Court that the powers of dismissal cannot be delegated to Lower Authority. The Appointing Authority or the Controlling Authority may suspend. The competent authority can only frame charges in view of the findings of the Hon'ble APEX Court in 1993 SCC (L&S) 206 and it has been held that only the appointing authority or a disciplinary authority or a competent authority can award punishment of removal even power cannot be delegated. In AIR 1995, SCC page 285, the Hob'ble APEX Court has held that the Disciplinary Authority or the statutory authority under rules can appoint enquiry Officer. There cannot be delegation. In AIR 1975 (7) SC, it has been held that it is a principle that the authority who appoints an employee has power to dismiss him from service.

In 1994 Supreme Court cases 575, the Hon'ble APEX Court has held that in case competent authority has not appointed enquiry officer, the disciplinary proceeding vitiates and it shall be deemed that there is non-application of mind and the enquiry is *void ab initio*. It was submitted from the side of the management that there were other occasions when the workman was given warning but those occasions are not under reference. So no finding can be given. From the side of the management, it was never pressed that the Dy. Director is the Competent Authority or he is the disciplinary authority or appointing authority and they have admitted that regulation 82 of Air India was in force at that time. In case Air India Regulation 82 was in force at that time enquiry ought to have been conducted according to the procedure prescribed in the said Regulation of 1982 but in this case the said regulations have not been followed and in the circumstances the enquiry vitiates *ab initio* and in case an enquiry is invalid *ab initio*, the findings of the enquiry will be invalid and the punishment awarded thereon shall be invalid. From the perusal of the witnesses and the enquiry proceedings and from perusal of the statement of the witnesses that have been produced in the court proceedings to prove the bonafide or otherwise of the enquiry proceedings, I am of the considered view that neither the enquiry committee has been constituted in accordance with the regulation 82 nor the charge sheet has been served and punishment has not been awarded according to the procedure mentioned in the said regulation by the competent authority. As such, the entire proceedings and the award of punishment is not valid in view of the citations that I have referred to. The management has absolutely failed by the evidence of the witnesses in the enquiry proceedings and evidence of the witnesses in the court proceedings to establish the charges levelled against the workman as the constitution of the enquiry committee is *void ab initio*.

It was submitted from the side of the management that there are delay and latches on the part of the workman applicant. The workman applicant has stated that emergency provision were invoked and so he could not initiate the proceedings. It has been further stated by the workman that he was out of employment so he was penniless. He got employment in the Aero Craft in April 1995. He is not getting equal wages there. In Aero Craft he is getting the very little amount. After arranging money he initiated the proceedings. He should be given full back wages till date of payment minus emoluments which he has received in the Aero Craft. In the circumstances, the workman applicant deserves to be reinstated with 100% back wages for the period of unemployment and no wages during gainful employment.

It was brought to my notice that the workman applicant is under gainful employment in the Aero Craft since April, 1995 as such he cannot be given any back wages for the period during which he was in gainful employment.

The award is replied thus :—

The action of the Management of Air India in removing from service Shri G.V. SHARMA Junior Operator w.e.f. 26-12-1989 is neither legal nor justified. The workman deserves to be reinstated from 26-12-1989 with 100% back wages during his period of unemployment. The management is directed to reinstate the workman applicant within one month of the publication of the award and pay him back wages as directed. In case of default, 6% interest per annum will run on the back wages from the date the same became due and till the date of payment. He will not be entitled to get any amount as back wages during his period of gainful employment.

The award is given accordingly.

Dated : 30-7-04.

R. N. RAI, Presiding Officer

नई दिल्ली, 12 अगस्त, 2004

का. आ. 2224.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टिस्को के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम. न्यायालय, धनबाद-1 के पंचाट (संदर्भ संख्या 156/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2004 को प्राप्त हुआ था।

[सं० एल-20012/421/99-आई.आर. (सी-1)]

एन०. पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th August, 2004

S.O. 2224.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 156/2001) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of TISCO and their workman, which was received by the Central Government on 10-8-2004.

[No. L-20012/421/99-IR(C-1)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. 1, DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 156 of 2001

PARTIES : Employers in relation to the management of Bhelatand Colliery of M/s. TISCO

AND

Their Workmen

PRESENT	:	Shri B. Biswas, Presiding Officer
APPERANCES:		
For the Employers	:	Shri B.K. Verma, Advocate.
For the Workman	:	Sri N.G. Arun, Authorised Representative.
State : Jharkhand		Industry : Coal

Dated, the 20th July, 2004

AWARD

By Order No. L-20012/421/99-IR (C-I) dated 2-2-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

> "Whether the action of the management of TISCO in stopping the employee Sri Rameshwar Pandey from work is justified? If not, to what benefits is he entitled?".

2. The case of the concerned workman according to the Written statement submitted by the sponsoring union on his behalf, in brief, is as follows :

The sponsoring union submitted that the concerned workman, Rameshwar Pandey was appointed as General Mazdoor, Category-I by the General Manager of M/s. TISCO vide his letter No. JMB/5/004080 dated 11/16-5-1994. Since the date of his appointment the said workman was posted at Bhelatand colliery under the management. They submitted that during his service period the workman was allotted Personnel No. 221532, CMPF No. JH 333761 and Pay Roll No. P/9275. They submitted that the concerned workman was in continuous service against permanent vacant post and the job which he used to perform was permanent and perennial in nature. They further submitted that since the date of his appointment to his illegal stoppage the workman continuously doing the job in underground mine for three years without any break and completed 190 days attendance in every preceding year of 12 months, preceding the date of his illegal stoppage to his joining in service. They further submitted that as the concerned workman was in continuous service according to definition of Sec. 25B of the Industrial Disputes Act, 1947 and enjoyed all the status of a permanent workman so the illegal cessation of work also attracts the provisions of Section 25F of the I.D. Act, 1947. They alleged that before such retrenchment the management neither issued any notice nor paid any compensation under Sec. 25F and 25G of the I.D. Act, 1947. After illegal stoppage of work the concerned workman through sponsoring union submitted representation to the management for his reinstatement in service, but the management neither reinstated the concerned workman in service nor paid any compensation to him and for which they raised industrial dispute before the A.L.C.(C), Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication.

They alleged that such retrenchment of the concerned workman was illegal, arbitrary and in violation of the principle of natural justice and for which they prayed for his reinstatement in service w.e.f. the date of retrenchment with full back wages and other consequential relief.

3. The management, on the contrary, after filing written statement-cum-rejoinder have denied all the claims and allegations which the concerned workman asserted in the written statement submitted on behalf of the concerned

workman. They disclosed that the concerned workman for the first time was given temporary employment was Category-1 Mazdoor for a period of one year by letter dated 11/16-5-1994. He joined his duty on 5-7-94 and as per terms of his employment he was disengaged w.e.f. 4-7-95 after completion of one year from that date. It is submitted further that the concerned workman was again provided temporary employment as Category-1 Mazdoor for a period of six months by letter dated 1-9-95 and continued working w.e.f. that date till he was disengaged w.e.f. 1-3-96 after completion of six months. The concerned workman again was provided temporary employment in Category-1 Mazdoor by letter dated 8-3-96 for a period of three months. He worked under the management w.e.f. 11-3-96 and was disengaged w.e.f. 8-6-96. In the same year he was again given one more appointment for one month from 2-9-96 to 1-10-96 by letter dated 27-8-96 and he was given appointment for one month from 3-10-96 to 2-11-96 by letter dated 3-10-96. The concerned workman was provided employment for a period of one month in the year 1997 by letter dated 9-1-97 and he worked upto 7-2-97 and thereafter his contract of employment was not renewed. They further submitted that as the concerned workman was employed from time to time as temporary worker on the basis of renewal of contract of employment, he cannot demand for continuous employment after non-renewal of contract w.e.f. 7-2-97. They submitted that disengagement of the concerned workman from duty for non-renewal of contract cannot be considered as stopping him from his duty. Actually he was offered the post of temporary worker in Category-1 Mazdoor and for which he does not have any right to claim for further employment. They submitted further that the management have introduced modern technology in coal mining operation in stages so as to meet the requirement of the steel plant only as the collieries under the company are captive mines for the steel plants at Jamshedpur and for which manpower requirement has been reduced considerably and the permanent workman have been declared surplus to the requirement of the management. To meet the surplus manpower they introduced several voluntary retirement schemes to maintain the optimum manpower as per requirement. Accordingly, when there was process of surplus manpower, the question of making temporary worker permanent does not arise and for which temporary workman cannot be engaged any further. Stating all the facts the management submitted that the demand of the sponsoring union for regular employment of the concerned workman is without any basis and for which the same is liable to be rejected summarily.

Points to be decided :

4. "Whether the action of the management of TISCO in stopping the employee Sri Rameshwar pandey from work is justified ? If not, to what benefits is he entitled?"

Finding with reasons :

5. It transpires from the record that the sponsoring union with a view to substantiate their claim examined the concerned workman as WW-1, while the management also with a view to substantiate their claim examined one witness as MW-1.

Considering the evidence WW1 and MW-1 I find no dispute to hold that the concerned workman was engaged by the management in the underground mine as General Mazdoor Category-1 on the basis of appointment letter issued to him. The said letter of appointment during evidence of the management was marked as Ext. M-1. The said appointment of the concerned workman was for a period of one year only and also on purely temporary basis subject to the terms and conditions that he may be terminated either on the expiry of sanctioned period or earlier as the case may be without assigning any reason thereof. It is further seen that after expiry of the said period of one year the management again vide letter No. JMB/478/007137 dated 31-8-95/1-9-95 appointed the concerned workman as temporary Category-1 Mazdoor on basic salary of Rs. 38.47 per day with all other allowances as per rules at Bhelatand colliery. By that appointment letter the concerned workman was informed that his service was temporary in nature and the same may be terminated either an expiry of sanctioned prior or earlier, as the case may be, without assigning any reason thereof. Subsequently the management vide letter No. JMB/478/001494 dated 8-3-96, letter No. JMB/478/005456 dated 27-8-96, letter No. JMB/5/006318 dated 3-10-96 and letter No. JMB/478/00195 dated 9-1-97 issued appointment orders in favour of the concerned workman for a period of three months w.e.f. 11-3-96, for a period of one month w.e.f. 3-9-96, for a period of one month w.e.f. 3-10-96, for a period one month w.e.f. 8-1-97 respectively. Therefore, considering the letters of appointment it transpires clearly that from May, 1994 till 1st part of 197 the concerned workman was in employment under the management at Bhelatand colliery as underground minor/loader in Category-I with intervening gap. It is admitted fact that after first part of 1997 the service of the concerned workman was not recovered further. It is the specific allegation of the sponsoring union that the management without giving any notice and also without paying any compensation retrenched the concerned workman from his service though he rendered service in the underground for more than 190 days in each year so long he worked there. They submitted further that the concerned workman worked under the management continuously not only against permanent vacant post but also against permanent and perennial nature of job. They submitted that the concerned workman was not in continuous service according to Sec. 25B of the I.D. Act

and enjoyed all the status of permanent workman and for which his illegal stoppage and cessation of work attracted the provision of Sec. 25F of the I.D. Act. It is seen that the concerned workman after joining as underground miner/ loader got his Personal No., CMPF Account No. and also pay Roll Number. Sec. 25B of the I.D. Act has clearly pointed out the definition of continuous service. The concerned workman during his evidence in support of his claim submitted his wage-sheets marked as Ext. W-8 series. The wagesheet shows that the concerned workman remained in continuous service from August, 1994 to July, 1995 and thereafter from September, 1995 to June, 1996 i.e. for a continuous period of ten months. Thereafter he worked under the management from September, 1996 to November, 1996 continuously for a period of three months. After that he worked continuously for two months i.e. January and February, 1997. Therefore, it is clear that in the first occasion the concerned workman worked under the management continuously for a period of one year, in the second occasion for a period of ten months, in the third occasion three months and in the fourth occasion for a period of two months. It is the contention of the management that as the service of the concerned workman was on contractual basis from time to time he was engaged by the management by issuing fresh letter of appointment and in each occasion his service was completed for its non-renewal. It is seen that the management issued as many as six appointment letters in favour of the concerned workman, marked as Exts. W-1 to W-6. From these appointment letters I have failed to find out an iota of evidence to draw conclusion that the concerned workman was engaged in employment as underground miner/loader in Category-I on contractual basis. On the contrary, it transpires that he was appointed on temporary basis. It is seen that by first letter of appointment the concerned workman rendered his service continuously for a period of one year. Thereafter by second appointment letter he was engaged in temporary basis for a period of six months w.e.f. 1-9-95. Thereafter his third appointment was given vide letter (Ext. W-3) for a period of three months w.e.f. 11-3-96. Therefore, according to the management in between the second appointment and third appointment there was a gap of only 7 days. His fourth appointment letter came into effect from 2-9-96 for a period of one month. Therefore, it should be presumed that the concerned workman was without service after 11-6-96. On the contrary, from wage slips marked as Exts. W-8 shows clearly that the continuously worked under the management without maintaining any gap. Therefore, the appointment letter issued by the management marked as Ext. W-2 to W-4 in the matter of time to time appointment with intervening gap finds no basis at all. There is sufficient scope to say that the concerned workman was allowed to work continuously from August, 1994 to July, 1995 and then from September, 1995 to June, 1996. Accordingly, there is reason to believe that all these appointment letters are to be considered as camouflage as the management did not act relying on the same. Onus absolutely rests on the management to establish that the concerned workman was given contractual job temporarily for a limited period. I find no hesitaton to say that the management has failed to establish this fact lamentably. There is no dispute to held that the concerned workman was engaged as General Mazdoor Cat. I in the mine for certain period. The allegation of the sponsoring union is that he was engaged in the underground mine continuously and for doing permanent and perennial nature of job. To rebut this claim the management did not specify in course of evidence which job was allotted to perform by the concerned workman which was absolutely temporary in nature and not perennial in nature. It is the claim of the management that due to introduction of modern technology in mines the manpower employed therein have been declared surplus and for which to cope with such problem they time to time issued voluntary retirement scheme. It is their further contention that when their permanent workers are surplus the question of elevating temporary workers to the permanent job did not arise. Therefore, according to submission of the management it is seen that function of manpower in the colliery have been abruptly reduced. If this fact is taken into consideration there was no reason to give employment to this worker on temporary basis particularly when there were several temporary workman under the management who are not getting their permanent status due to reduction of manpower for introduction of modern technology. Therefore, there is sufficient reason to believe that though the management introduced modern technology for improvement of works in the mine they could not eliminate the necessity of using manpower to augment production with the assistance of modern technology. I have already discussed above that the management have failed to substantiate that the concerned workman was engaged on contractual basis for a limited period and the service which the concerned workman rendered in the mine as Category-I Mazdoor was absolutely temporary in nature and not perennial in nature. Considering the wage-sheet submitted by the concerned workman it has been established that he continuously worked for more than 190 days in the underground and thereby satisfied the provision as laid down under Sec. 25-B of the I.D. Act. Section 2(a) has clearly defined 'workman". There is no dispute to hold that the nature of service which the concerned workman rendered to the management comes within the definition of Sec. 2(s) of the I.D. Act. It is the specific allegation that the concerned workman was retrenched by the management. Section 2(oo) has clearly defined "retrenchment" while Section 2(bb) deals with termination of the workman as a result of non-renewal of contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein. I have discussed in details what conformity was detected in between the service rendered by the concerned workman and the letters of

appointment issued to him. If there was a contract definitely the service would be terminated on conclusion of the contractual period, but in the instant case it was not so happened which I have already discussed in details. Therefore, there is no scope at all to say that the concerned workman was engaged in any contractual service as per contract entered into between him and the management. There is sufficient reason to hold that the concerned workman was retrenched from his service without assigning any reason though he rendered service to the management for more than 190 days in underground in each year since the date of his appointment without assigning any reason. Section 25F has clearly pointed out to the effect that no workman employed in any industry who has been in continuous service not less than one year under an employer shall be retrenched by the employer without giving one month's notice in writing indicating the reason for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice, wages for the period of the notice, or retrenchment compensation. Here, considering the materials on record I find no dispute to hold that the management did not apply the provision as laid down under Sec. 25-F of the I.D. Act.

6. The sponsoring union with a view to substantiate their claim referred to certain decisions of Hon'ble Apex Court and Hon'ble High Court for consideration. In the decision reported in 2001(90) F.L.R. 55. Their Lordhips of Rajasthan High Court observed that termination of the workmen from service without following Sec. 25-F and 25-G of the Act when they completed 240 days of work in a calendar year and in continuous service except by an artificial break were bad in law and illegal. The decision reported in AIR 1977 (SC) 31, Their Lordships of Hon'ble Apex Court observed that termination of service by efflux of time amounts to retrenchment and non-compliance of Sec. 25-F before such termination was declared illegal. In the decision reported in AIR 2000(SC) 455 in connection with Municipal Corporation, Delhi *Vs.* Prem Chand Gupta, Their Lordhips of Apex Court in para 17 observed as follows :

> "Learned counsel for the appellant—Corporation, Ms. Binu Tamta, in order to salvage the situation invited our attention to a decision of this Court in the case of Birla VXL Ltd. Vs. State of Punjab (1998) 5 SCC 632 : (1998 AIR SCW 3899; AIR 199 SC 561 : 1999 Lab IC 236) and submitted that when the appointment is given for a fixed period, on expiry of the said period the appointment would cease by efflux of time and it could not be said to be a retrenchment. In the aforesaid case, a two Judge Bench of this Court was concerned with appointment order given to the third respondent before this Court on 1-1-1983 which clearly stated that it was appointment for two years upto 31-12-84. When the said termination by efflux of time took place, Section 2(oo) of the I.D. Act, had already got amended by insertion of exception Clause (bb) therein which reads as under :
>
> 'Termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein: or,
>
> Thus, it was a case of automatic termination of employment in the light of the stipulation contained in the appointment itself. Such termination could not be treated as retrenchment in the light of the excepted category indicated by Clause (bb) inserted in Section 2(oo) by the amending Act of 1984. It has to be kept in view that respondent-workman's termination was prior to 1984 amendment to Sec. 25-F. Hence, it was squarely governed by the ratio of decision of this Court in case of the State Bank of India Vs. Shri N. Sundara Money (AIR 1976 SC 1111 : 1976 Lab IC 769) (supra). It is, therefore, not possible to agree with the contention of learned counsel for the appellant that termination of the respondent-workman on 29-4-1966 would not be retrenchment. It has also been seen that even though the earlier appointment of the respondent workman was for one year from 5-5-1964 his re-appointment from 1-10-1964 was not for a fixed period and on the contrary it continued upto 18 months and it was against a clear vacancy of a permanent post caused on account of the termination of another employee. Consequently, reliance placed by learned counsel, Ms. Binu Tamta for the appellant Corporation on the aforesaid decision of this Court is of no avail to her. She then invited our attention to a later decision of this Court in the case of Rajasthan Adult Education Association V. Ashoka Bhatacharya (Km) (1998) 9 SCC 61 : (1977 AIR SCW 4316 : AIR 1998 SC 336 : 1998 Lab IC-420). In that case this Court was concerned with the termination of a probationer temporary servant on account of un-satisfactory performance. A probationer employee was found to have not satisfactorily worked during his probation and her services were terminated w.e.f. 31-5-1989. This is also a case where after the amendment of Section 2(oo) by inserting of Clause (bb) from 1984 such termination of probationers for unsatisfactory work would remain outside the sweep of Section 25-F read with Section 2(oo). In the present case, as seen earlier, the termination was years back of 29-4-1966 when Section 2(oo) (bb) was not on the statute book. Reliance was then placed by learned counsel for the applicant-Corporation on a decision of a learned single Judge

of the Gujarat High Court in the case of Sunil Kumar S.P. Sinha Vs. Indian Oil Corporation Ltd., Delhi, 1983 Lab IC. 1139. This decision also cannot be of any avail to her for the simple reason that the said decision proceeded on its own facts. In para 14 of the report, it has been clearly mentioned by the learned single Judge that the employee in that case was not a workman and again there was no evidence to show that all the requirements of Section 25-F were complied with for its applicability. It was a direct writ petition in the High Court and in absence of relevant data the said Section was held to be not applicable. The said judgement rendered on its own facts, therefore, cannot be pressed in service in the light of clear findings of fact reached by the Labour Court in the present case, which have remained well sustained on record, as seen by us earlier for applicability of Section 25-F to the impugned termination of the respondent-workman's service. As a result of the aforesaid discussion, it must be held that termination of the respondent-workman's service on 29-4-1966 was violative of Section 25-F of the I.D. Act and was, therefore, null and void."

Again in the decision reported in (2003) 4 SCC 27 Their Lordships of the Apex Court observed that employment must be shown to be under a contract which stipulates that it would come to an end with the expiry of the project or scheme and the workers must be shown to have been made aware of such stipulation at the commencement of their employment. Mere proof of employment of casual workers or daily-wagers in a project or scheme and termination of their services on the project or scheme coming to an end not enough to attract the exception of sub-clause (bb) of Section 2. Accordingly, Their Lordships observed that the said termination amounted to retrenchment.

7. Therefore, in view of my discussions above and also in view of the decisions of Hon'ble Apex Court referred above, I find no dispute to hold that the management inspite of getting sufficient scope have failed to establish that appointment of the concerned workman was on contractual basis. It has been established clearly that though time to time for a limited period fresh letter of appointment on each occasion was given to the concerned workman, he was allowed to work continuously at the choice of the management without any break. Moreover, it transpires that the concerned workman worked under the management more than 190 days as underground miner in each year till he was on employment. Accordingly, the management had the responsibility to comply with the provision of Section 25-F of the I.D. Act before his retrenchment from service. As they did not do so his retrenchment should be considered as illegal and he should be reinstated in service from the date of his retrenchment.

Now, the question is what other consequential benefit the concerned workman is entitled to get. It has been clearly observed that the concerned workman was illegally retrenched by the management for violation of Section 25-F of the I.D. Act. The document marked as Ext. W-6 will draw conclusion that the service of the concerned workman was stopped by the management w.e.f. 8-2-1997. Therefore, his reinstatement in service will take into effect from that date. It is clear that from 8-2-1997 the management did not get any service from the concerned workman due to such illegal retrenchment. No evidence also is forthcoming that the concerned workman during this period was not engaged in any other job or not. It is seen that both sides were very much busy in the matter of establishing claim and counter-claim in the matter of reinstatement of the concerned workman in service. But they did not consider necessary whether the concerned workman is entitled to get full back wages from the date of his reinstatement or not. Neither in the written statement submitted by the sponsoring union nor in the written statement-cum-rejoinder submitted by the management I find any whisper in the matter of quantum of back wages which the concerned workman is entitled to get, though it is clear that the management did not get any service from him. However, as that retrenchment, in view of my observation made above, it appears to be illegal the management cannot avoid responsibility to pay back wages to the concerned workman at the rate of 25% of the wages which he draw on the last date of his work till the date of his joining after implementation of this award with consequential benefits.

8. In the result, the following award is rendered —

The action of the management of M/s. TISCO in stopping the employee, Sri Rameshwar Pandey from work is not justified. Accordingly, the management is directed to reinstate the concerned workman, Rameshwar Pandey, in service with 25% of his back wages w.e.f. the date of his stoppage from service i.e. 8-2-1997 and other consequential benefits within two months from the date of publication of the award in the Gazette.

B. BISWAS, Presiding Officer.

नई दिल्ली, 12 अगस्त, 2004

का. आ. 2225.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-I के पंचाट (संदर्भ संख्या 50/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2004 को प्राप्त हुआ था।

[सं० एल-20012/456/2000-आई.आर. (सी-1)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th August, 2004

S.O. 2225.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 10-8-2004.

[No. L-20012/456/2000-IR (C-1)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. 2, DHANBAD

in the matter of a reference u/s. 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 50 of 2001.

PARTIES: Employers in relation to the management of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT : Shri B. Biswas, Presiding Officer

APPEARANCES:

For the Employers : Shri D. K. Verma, Advocate.

For the Workman : None

State : Jharkhand. Industry : Coal

Dated, the 21st July, 2004.

AWARD

By Order No. L-20012/456/2000 (C-1) dated 19-2-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

> "Whether the action of the management of M/s. BCCL in not allowing Shri R.N. Choudhary, overman of Coal Controller Organisation to join duty from 11-1-96 to 4-6-96 and not making payment of wages for above period is justified, legal and proper? If not, to what relief is the workman entitled?".

2. The case of the concerned workman according to the Written Statement submitted by the sponsoring union on his behalf, in brief, is as follows :

The sponsoring union submitted that the concerned workman was overman in Coal Controller Organisation, Dhansar under the management of M/s. BCCL. He went on authorised leave from 6-7-95 to 15-7-95.

In course of enjoyment of authorised leave suddenly the concerned workman fell ill and for which he was unable to resume his duty on 16-7-95. Accordingly he informed the management in the matter of his illness within ten days from time to time from his native village by registered post and certificate of posting. After returning back to Dhanbad at his quarter of Kendwadih he again fell ill and for which he was under treatment of Doctor at Kendwa from 19-12-95 to 10-1-96. They submitted that on 11-1-96 when the concerned workman applied for joining his duty with medical certificate and at the relevant time he was not allowed to resume his duty instead they allowed him to resume his on and from 5-6-96. They submitted that as a result the said concerned workman remained idle from 11-1-96 to 4-6-96. They alleged that the action taken by the management of not allowing the concerned workman to join his duty from 11-1-96 to 4-6-96 and refused to pay wages for the said period was arbitrary, illegal and unjustified. Accordingly, they submitted representation to the management with a prayer of releasing the wages for the period in question. But as the management refused to release his wages for the period in question they raised on industrial dispute before the A.L.C.(C), Dhanbad, which ultimately resulted reference to this Tribunal for adjudication. The sponsoring union accordingly submitted prayer to pass award directing the management to release his wages for the period from 11-1-96 to 4-6-96 with other consequential benefits.

3. The management, on the contrary, after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workmen. They submitted that the concerned workman started remaining himself absent from duty w.e.f. 16-7-95 without any information/permission of the appropriate authority. As the said absence without prior permission/ intimation of the management amounted to misconduct as per provision of Certified Standing Order they issued a charge-sheet to the concerned workman on 25-3-96. The concerned workman submitted his explanation on 2-4-96. As the explanation submitted by the concerned workman was not satisfactory the disciplinary authority decided to hold domestic enquiry against the concerned workman and appointed M.K. Singh as Enquiry Officer. The concerned workman in the departmental enquiry fully participated and

full opportunity was given to him to defend his case. After completion of enquiry the said Enquiry Officer submitted his report holding the concerned workman guilty to the charges. The disciplinary authority after considering the report and considering all other circumstances instead of dismissing the concerned workman from service stopped one increment and allowed him to resume his duty with warning not to repeat such misconduct in future. They submitted that the punishment passed by the competent authority was legal and justified. After a lapse of many years the concerned workman has raised the present industrial dispute with some ulterior motive ignoring the fact that he did not work during the period from 11-1-96 to 4-6-96 for wages/attendance has been claimed. They submitted that during the said period disciplinary proceeding was pending against the concerned workman for committing misconduct. Accordingly, the management submitted prayer to pass award rejecting the claim of the concerned workmen.

Points to be decided :

4. "Whether the action of the management of M/s. BCCL in not allowing Shri R.N. Choudhary overman of Coal Controller Organisation to join duty from 11-1-96 to 4-6-96 and not making payment of wages for above period is justified, legal and prayer? If not, to what relief is the workman entitled?"

Finding with reasons :

5. It transpires from the record that the concerned workman with a view to substantiate his claim was examined partly and his further examination was deferred on his prayer. Record shows that thereafter in spite of giving repeated opportunity the concerned workman did not turn to adduce his further evidence. As a result vide order No. 14 dated 14-7-2004 the said evidence in part which was recorded by this Tribunal was expunged on the ground that the management was deprived of cross-examining the witness due to his absence. It transpires further that thereafter the management examined one witness as MW-1 with a view to substantiate his claim.

Considering the facts disclosed in the pleading of both sides and also considering the evidence of MW-1 it transpires that the management did not release the wages of the concerned workman from 11-1-96 to 4-6-96. It is the claim of the concerned workman that the management illegally did not agree to pay wages to him during the period in question. On the contrary, it is the contention of the management that as the concerned workman remained on unauthorised absence for the period from 16-7-97 a charge sheet was issued to him dated 25-3-96 for committing misconduct on the ground of absenteeism. The concerned workman submitted his reply to the charge sheet on 2-4-96. As the reply given by the concerned workman was not satisfactory the disciplinary authority decided to hold departmental enquiry against the concerned workman and accordingly appointed M.K. Singh as Enquiry Officer. The hearing of the said enquiry proceeding was held in presence of the concerned workman and full opportunity was given to him to defend his case. After completion of the hearing of the enquiry proceeding the said Enquiry Officer submitted his report holding the concerned workman guilty to the charges. Thereafter the disciplinary authority considering the report submitted by the Enquiry Officer and also considering all other material facts instead of dismissing the concerned workman from service stopped his one increment and allowed him to resume his duty w.e.f. 5-6-96 giving due warning not to do such misconduct in future. MW-1 during his evidence disclosed relying on a circular issued by the management that when a worker remains himself absent beyond three months the worker will be allowed to duty only with the approval of the Director (Personnel)/Headquarter after taking decision in the matter of disciplinary action to be taken against the workman on completion of enquiry held against him. The said circular during the evidence of MW-1 was marked Ext. M-1. I have carefully considered the circular in question and find corroboration the facts submitted by MW-1 in course of his evidence. It is the contention of the management that departmental enquiry proceeding was pending during the said period for the misconduct committed by the concered workman. Accordingly, as per circular the concerned workman was debarred from joining his duty. He was allowed to join his duty only after taking decision by the disciplinary authority. Therefore, the concerned workman is not entitled to get wages for the period in question. The concerned workman had the scope to adduce evidence contradicting the claim of the management, in view of the circular issued in that regard. But the concerned workman did not consider necessary to come forward with a view to rebut the claim of the management. If the direction given in the circular (Ext. M-1) is taken into consideration there is sufficient scope to say that the management did not commit any illegality in not releasing his wages for the period in question as at that relevant time the departmental enquiry proceeding matter was pending.

6. Accordingly, in view of the facts and circumstances discussed above I hold that the management did not commit any illegality or took any arbitrary decision in refusing to release wages in favour of the concerned workman for the period from 11-1-96 to 4-6-96. The concerned workman, as such, is not entitled to get any relief.

7. In the result, the following award is rendered—

The action of the management of M/s BCCL in not allowing Shri R.N. Choudhary, overman of Coal Controller Organisation to join duty from 11-1-96 to 4-6-96 and not making payment of wages for above period is justified. Hence, the concerned workman is not entitled to get any relief.

B. BISWAS, Presiding Officer

नई दिल्ली, 12 अगस्त, 2004

का.आ. 2226.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या सीजीआईटी-1/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-8-2004 को प्राप्त हुआ था।

[सं० एल-40011/18/2002-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 12th August, 2004

S.O. 2226.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-1/2003) of the Central Government Industrial Tribunal/ Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Telecom and their workman, which was received by the Central Government on 12-8-2004.

[No. L-40011/18/2002-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT JAIPUR

Case No. CGIT-1/2003

Reference No. L-40011/18/2002-IR(DU)

Sh. Akhilesh Kumar Sharma,
S/o. Sh. Natha Ram Sharma,
R/o 4-ya-5 Jawahar Nagar,
Jaipur. .....Applicant

Versus

The Principal General Manager, Telecom,
BSNL, M.I. Road,
Opp. GPO,
Jaipur. .....Non-applicant

PRESENT:

Presiding Officer : Sh. R. C. Sharma

For the applicant : Sh. R. C. Jain

For the non-applicant : Sh. Brahmanand Sandhu

Date of award : 27-07-2004

AWARD

1. The Central Government in exercise of the powers conferred under Clause 'D' of Sub-section 1 & 2(A) to Section 10 of the Industrial Disputes Act, 1947 (for short, 'the Act') has referred the following industrial dispute for adjudication to this Tribunal which runs as under :—

> "Whether the workman Sh. Akhilesh Kumar Sharma S/o Sh. Natha Ram Sharma is entitled to get the conveyance allowance from the management of Chief General Manager, Telecom District, BSNL? If so, from which date?"

2. In his claim statement, the workman has pleaded that during his posting in the legal cell of the establishment he had to attend the Court proceedings pertaining to the official cases and had to visit counsels residences/ chambers by his own scooter for legal consultation in the cases in the interest of the management. His further averment is that for performing these duties he is entitled to avail the conveyance allowance from the employer. He noted all the relevant details in the conveyance diary from the period 1-3-98 to 31-5-98 and submitted it for approval before the legal cell. As per the notings in the diary, Rs. 320 per month conveyance allowance was payable to him. The diary was examined in the legal cell and was concurred by the Sub Divisional Engineer (SDE) and was also counter-signed by the Divisional Engineer. After the concurrence of the proposals, it was forwarded to the staff branch for the payment, but no payment was made to him. The workman has further added that as per the details of the diary, he is entitled to get the amount of Rs. 320 per month as conveyance allowance from the period 1-3-98 to 12-8-99. He has admitted that for the last five years he had been getting Rs. 150 per as conveyance allowance, which was insufficient for him. Under the various heads of the expenditure e.g. litigation, costs etc. including the conveyance allowance@ Rs. 320 per month ranging from the period 1-3-98 to 12-8-99 amounting to Rs. 5560 he had claimed a total sum of Rs. 17,560 admissible to him.

3. In the written statement, the non-applicant has disputed the claim and has pleaded that the conveyance allowance is admissible to special posts with due concurrence and sanction of the competent authority, that the diary was neither concurred by accounts wing for sanctioned by the competent authority and that the applicant was already attending the courts like other officers for which he was reimbursed the conveyance bill up to the maximum limit of Rs. 150 per month. It has also been further stated that the conveyance diary was prepared by the applicant himself at his own and that the applicant was himself drawing Rs. 150 as conveyance allowance for the last five years working on the same post.

4. In the rejoinder, the workman has reiterated the same facts as stated by his claim statement.

5. In the evidence, the workman has examined himself and on behalf of the non-applicant, the counter-affidavit of Sh. Laxmi Narayan Sharma, SDE was placed on the record. The relevant record has been placed on the record on behalf of the non-applicant.

6. I have heard both the parties and have gone through the record.

7. Now, the short question which requires determination is as to whether the workman is entitled to get the conveyance allowance @Rs. 320 per month from 1-3-98 to 12-8-99?

8. The ld. representative for the non-applicant contends that in the relevant period the workman was appointed in the legal cell who had to undergo the journey over 200 kms a month and the non-applicant corporation has assessed his average monthly travel as 479 kms. The workman maintained the conveyance diary and after noting the day-to-day journey undertaken by him for three months the diary was placed before the concerned authorities for approval, which was recommended for the grant of the conveyance allowance before the higher authorities. But the payment of the conveyance allowance was not made to him. His contention is that all the compliances were made by the workman despite that the conveyance allowance was not given to him.

9. Arguing contra, the ld. representative for the non-applicant corporation submits that the workman was only entitled for the conveyance allowance for one month not exceeding Rs. 150 per month and for the last five years the conveyance allowance at this rate was paid to him. His next contention is that the amount claimed by him @Rs. 320 per month is not admissible to him as per the rules and he is only entitled for the reimbursement of the conveyance allowance up to the limit of Rs. 150 p.m. only. He has further contended that the Sub Divisional Engineer (Legal) has only verified his conveyance diary from the period 1-3-98 to 31-5-98 and the period of journey thereafter has not been verified by him, whereas the workman has claimed the conveyance allowance beyond this period which is about 18 months. Lastly, he contended that the chief Accounts Officer & Financial Advisor is the competent authority in this regard, who has not sanctioned the said allowance to the workman.

10. I have given my thoughtful consideration to the rival contentions.

11. It is not in dispute that in the relevant period the claimant was posted in the legal cell of the corporation and that he had to attend the court proceedings relating to the official cases and had to visit the counsels, residences/chambers for the official legal purposes. The stand adopted by the corporation is that the workman is only entitled to get the conveyance allowance reimbursed up to the tune of Rs. 150 per month, whereas the workman's case is that under the relevant rules he is even entitled to get the conveyance allowance on the basis of the average monthly journey undertaken by him while discharging his duties.

12. The Supplementary Rules 89 and 25 govern the conveyance allowance admissible to the employees of the corporation. General condition No. 2(1) of SR 89 lays down that "total amount of conveyance hire reimbursed in any month not exceed Rs. 150 per individual."

13. Under heading No. 16 of the conveyance allowance of SR 25, the following provisions are incorporated :—

> "Conveyance allowance is admissible to an employee who is required to travel extensively at or within a short distance from his headquarters but cannot claim travelling allowance. For grant of the allowance :—
>
> 1. The average monthly travelling on duty should exceed 200 km."

14. In view of the aforesaid condition, it sounds that the reimbursement of the conveyance allowance to the limit of Rs. 150 per individual can exceed if the employee has undertaken the travel extensively on duty which has exceeded 200 Km per month.

15. Further the procedure for getting the conveyance allowance as defined in the aforesaid heading is laid down under the condition No. 1 which is reproduced below :—"Initial fixation—1: The employee concerned should maintain for at least three months a log-book of journeys on duty qualifying for the allowance. The log-book should contain the details regarding place(s) visited distance covered, purpose of visit, and mode of conveyance used. The sanctioning authority after scrutinizing the log-book may sanction the allowance at the appropriate rate from the date the log-book is maintained for the later date."

16. The aforesaid conveyance allowance can only be granted for a limit of two years and in this regard the relevant provision is enshrined under the title "review" which reads as under :—

"Review—Allowance will be granted for a period not exceeding two years at a time and its continuance should be reviewed at the end of each such period. The procedure for review will be as for the initial grant."

17. Now, in view of the aforesaid provision, it is be ascertained on facts as to whether the workman has complied with the requirements laid down under the aforesaid rules.

18. The workman in his affidavit has narrated all the relevant facts as stated in his claim statement. In his cross-examination, he has admitted that till February, 1998 he was getting Rs. 150 as travelling allowance, which was insufficient looking to the expenditure incurred by him while discharging his duties and he is also entitled to get the conveyance allowance. He has also disclosed the relevant facts that he had maintained the conveyance diary from 1-3-98 to 31-5-98, which entitled him for conveyance allowance upto the rate of Rs. 320 per month. He also submitted the conveyance diary in the legal cell for its examination.

19. The statement of claim is supported from the official record produced on behalf of the corporation. In the log book on 30-5-98 (at page 30), the office examined the case of the workman and it has been noted that average monthly journey undertaken by the workman is reckoned as 479 km. It was verified by the Sub Divisional Engineer and further counter signed by the Divisional Engineer (phones), Legal. Thereafter, the case was recommended to the higher authority for the sanction of the conveyance allowance at the prescribed rate for an average of 479 km. The recommendation of the Sub Divisional Engineer (legal cell) is available at page 31 of the log book which has been countersigned by the Divisional Engineer (Phones), Legal. The matter was scrutinised by the SDE and he has arrived at a conclusion that the journeys in the log book are in the interest of the service and are within the sanction of the official during the period 1-3-98 to 31-5-98. It further says that the average monthly distance covered by the official is 479 km.

20. Thus, the compliances of the condition No. 1 of conveyance allowance and the condition relating to initial fixation for maintaining the log book at least for three months of journeys on duty qualifying for the allowance have been observed by the workman. Furthermore, the provision of 'review' prescribes the entitlement of the conveyance allowance only for a period of two years at a time which has also been complied with by the claimant when he has put forth his entitlement for the conveyance allowance for a period of 18 months ranging from 1-3-98 to 12-8-99.

21. The rates of conveyance allowance exhibited under the heading Conveyance Allowance show that on undertaking average monthly journey on official duty from 451 to 600 kms by the other conveyance other than motorcar, Rs. 320 per month would be admissible to the employee as the conveyance allowance. Thus, the demand of the claimant of Rs. 320/- as the conveyance allowance per month for the aforesaid period is strengthened by the aforesaid table of rates of conveyance allowance. Even the management witness Shri Laxminarayan Sharma has admitted in his cross-examination that there was no rider for availing of the conveyance allowance by any cadre of the employees.

22. On these facts, the workman has succeeded to establish that he has followed the prescribed procedure while putting forward his claim, which was also verified and recommended by the concerned authority for according the sanction. Undisputedly, the claim of the workman was not sanctioned by the concerned authority. While declining the claim of the workman the concerned authority on 25-7-2001 at page NS-15 of the Conveyance Diary relating to the workman has noted that the workman had not intimated his controlling authority prior to processing the conveyance diary. It, therefore, appears that only on his count, his claim was disallowed. The reason for refusal assigned by the concerned authority does not appear to be supported by the relevant provision of the initial fixation, which nowhere lays down that the employee concerned would maintain the log book of journey on duty after prior intimation to his controlling authority. Neither the ld. Representative for the corporation could be able to point out any such provision during the course of the argument nor the management witness Sh. L.N. Sharma has mentioned such provision in his affidavit. On a careful scrutiny of his affidavit, it is revealed that he had only stated to this extent that the applicant himself had prepared the conveyance diary and no direction for maintaining the conveyance diary was given to him by the authority. The objection raised on behalf of the competent authority while sanctioning the conveyance allowance to the workman further does not survive on the basis of the verification by the concerned SDE which was counter signed by the Divisional Engineer. Thus, from the aforesaid facts, it is manifest that without any good reason the entitlement of conveyance allowance to the workman was denied by the competent authority.

23. On a close scrutiny of the materials available on the record and the oral evidence adduced by both the parties, it is held that the workman has succeeded in establishing his entitlement to get the conveyance allowance @ Rs. 320 per month from the period 1-3-98 to 12-8-99.

24. As a result, the reference is answered in affirmative in favour of the workman and against the non-applicant corporation in the manner that the workman is entitled to get the conveyance allowance from the non-applicant management from 1-3-98 to 12-8-99 at the rate of Rs. 320 per month. An award is passed in these terms accordingly.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 12 अगस्त, 2004

का०आ० 2227.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी० सी० एल०

के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-I के पंचाट (संदर्भ संख्या 13/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2004 को प्राप्त हुआ था।

[सं० एल-20012/97/96-आई.आर. (सी-1)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 12th August, 2004

S.O. 2227.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 13/99) of the Central Government Industrial Tribunal/Labour Court CCL now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Dhanbad-I and their workman, which was received by the Central Government on 10-8-2004.

[No. L-20012/97/96-IR (C-1)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference under Sec. 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 13 of 1999

PARTIES : Employers in relation to the management of Kedla Colliery of M/s. C.C. Ltd.

AND

Their Workman.

PRESENT :

Shri B. Biswas, Presiding Officer.

APPEARANCES :

For the Employers	:	Shri D.K. Verma, Advocate.
For the Workman	:	Shri C. Prasad, Advocate.
State : Jharkhand.		Industry : Coal

Dated, the 26th July, 2004

AWARD

By Order No. L-20012/97/96-IR(C-I) dated 6-1-99 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the dispute for adjudication to this Tribunal with following schedules :

"Kya United Coal Workers Union ki mang ki Shri Ramashray Shaw, jinhe audyogik pradhikaran, Dhanbad ke panchat sankhya 60/1981 dinank 19-7-83 dwara punarsthapit kiya gaya tha, ko clerical grade-III me 1-6-80 se tatha clerical grade-II me 7-8-84 se niyamit padonnat kiya jai tatha pichhale pure samay ke liya wetan ke antar ka bhugtan kiya jay, uchit hai? Yadi hai to vhi kis rahat ke patra hai?"

2. The case of the concerned workman according to the written statement submitted by the sponsoring union on his behalf, in brief, is as follows :

The sponsoring union submitted that the management of Kedla Underground Project from very beginning of the service of the concerned workman was adamant towards him and subsequent to that they stopped him from work alongwith other workmen of the colliery in the name of impersonator and for that issue an industrial dispute was raised and thereafter consequent to that industrial dispute a reference was made to this Tribunal by the Ministry for adjudication. The Government of India, Ministry of Labour, vide Order No. L-24012/(13)/81-IV(D) dated 1-9-81 referred the matter for adjudication to the Central Government Industrial Tribunal No. 2, Dhanbad where it was numbered as Reference No. 60 of 1981 and after hearing the said case the Hon'ble Presiding Officer of this Tribunal passed an award holding that the action of Kedla Underground Project of M/s. C.C. Ltd., Hazaribagh in stopping the concerned workman and other piece-rated workers from 4-2-81 was not justified and directed the management to reinstate the concerned workmen in service with effect from 4-2-1981 alongwith back wages and other consequential relief. They submitted that in view of the award passed by this Tribunal the concerned workman is very much entitled to get his promotion and wages as if he was in employment had he never been dismissed from service. They submitted that in view of Office Order No. GM(H)/PS-49-A/80/20609-50 dated 11/12-8-80 issued by the management the service of the concerned workman was regularised to the post mentioned against him vide serial No. 36 w.e.f. 1-6-80 as Clerk Grade-III and he was entitled to get difference of wages till 31-10-80 from 1-6-80 but unfortunately it has not been materialised till to-day. They alleged that the management arbitrarily promoted the junior of the concerned workman from clerk Grade-III to Clerk Grade-II superseding him. Again the management vide Office Order No. GM(H)/PS-262A/84/1994/70 dated 7/13-8-84 upgraded the post of Munshies from Grade-III to Grade-II depriving him from his legitimate claim. Disclosing this fact they submitted that the management did not take

into consideration of the award passed by the Hon'ble Tribunal. They submitted that the management could not show any cogent reason for not giving promotion to the concerned workman from Grade-III to Grade-II though his juniors were given promotion. They alleged that by doing such arbitrary act the management has violated the spirit of the order of the Hon'ble Tribunal. They disclosed that over this illegal and arbitrary decision they raised an industrial dispute before the A.L.C. (C), Hazaribagh to implement the award of the Tribunal . But the A.L.C. (C) without giving any importance to enforce the award of the Tribunal submitted a failure report to the Central Government which resulted reference to this Tribunal for adjudication.

The demand of the sponsoring union is that the concerned workman who was reinstated in service vide award of this Tribunal from 1-6-80 to Clerk Grade-III and from 7-8-84 in Clerk Grade-II be promoted and paid difference of wages and other consequential benefits.

3. The management, on the contrary, after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workman.

They submitted that the issue involved in Reference No. 60 of 1981 was to decide on justification of termination of service of the concerned workman w.e.f. 4-2-81. In the said reference the concerned workman was described as piece-rated worker. They submitted further that the learned Tribunal passed the award on 19-7-83 holding that the termination of service of the concerned Piece-rated worker was not justified. Therefore, he was entitled to be reinstated on his original job w.e.f. 4-2-81. In view of the award passed by this Tribunal they reinstated the concerned workman to his original job of piece-rated worker as per aforesaid award dated 19-7-83. The concerned workman was deputed to work as underground munshi and was regularised as Clerk Gr. III w.e.f. 15-9-87. Thereafter the concerned workman obtained his Mining Sirdar Certificate by appearing in the mining examination and his case was considered for change of cadre from clerical cadre to technical and supervisory cadre on the mining side and he was selected as Mining Sirdar on which post he is now working. They alleged that the concerned workman made an attempt to improve his status from the post of piece-rated worker to that of clerk and subsequently to the post of mine official in the capacity of Mining Sirdar who holds statutory post and supervise and control the workmen working in the mining district. They contended that the sponsoring union unnecessarily misleading the concerned workman to adopt this litigation with demand for clerical Grade-III w.e.f. 11-6-80 and Grade-II with effect from 7-8-84 although when the award was pronounced by this Tribunal in Reference No. 60/81, he was holding the post of piece-rated worker and the learned Tribunal gave direction to reinstate him to his original job of piece-rated worker. Accordingly, they submitted that the present demand of the sponsoring union is nothing but an attempt to earn some money from the Public Sector Undertaking through litigation on some pretext or other. Accordingly, they submitted that the claim of the concerned workman is liable to be rejected.

Points to be decided :

4. "Whether the demand of United Coal Workers Union that Rameshray Saw, who was reinstated in service on the basis of an award dated 19-7-83 passed by the Central Govt. Industrial Tribunal No. 2, Dhanbad, in Reference Nos. 60/81 & 64/81, is entitled for promotion in clerical Grade-III w.e.f. 1-6-80 and in clerical Grade-II w.e.f. 7-8-84 is justified? If yes, what relief the concerned workman is entitled ?"

Finding with reasons :

5. It transpires from the record that the sponsoring union with a view to establish the claim of the concerned workman examined him as WW-1. The management also with a view to substantiate their case examined one witness as MW-1.

Considering the facts disclosed in the pleadings of both sides and considering the evidence of WW-1 and MW-1 I find no dispute to hold that over an order of dismissal of the concerned workman and others, they raised an industrial dispute and over that dispute the Ministry of Labour vide order No. L-24012(13)/81-D. IV(B) DATED 1-9-81 made a reference to this Tribunal for its adjudication which was registered as Reference No. 60/81. My predecessor-in-office disposed of the said reference case analogously with Reference No. 64/81 and passed award dated 19-7-83. The schedule of reference of that case was as follows :

> "Whether the action of the management of Hazaribagh Area of Central Coalfield Ltd., in stopping S/Shri Budhan Jaiswara, piece-rated workman of Jharkhand colliery and (2) Kanahi Nahako, (3) Bhagwan Muni, (4) Kaloo Behara, (5) Kartik Behra, Piece-rated workers of Kedla South colliery from work is justified ?

It is to be borne into mind that before 1-9-81 the sponsoring union raised industrial dispute at A.L.C. (C), Hazaribagh over dismissal of the concerned workman and some other workmen. It is clear that when they raised industrial dispute they were designated themselves as piece-rated workers. The copy of the award during evidence

of WW-1, was marked as Ext. W-1. The learned Presiding Officer in para 23 of the judgement observed as follows :

> "Thus considering all aspects of the case I hold in Reference case No. 60/81 as follows :
>
> The action of the management of Kedla Underground Project of Central Coalfields Ltd., District Hazaribagh in stopping S/Shri Ramashray Saw, Saudhagar Sao and Garib Chand Sao, piece-rated workmen from 4-2-81 is not justified. Consequently, the concerned workmen should be deemed to be in the employment of the Project of Central Coalfields Limited w.e.f. 4-2-81, They are also entitled to all the back wages and other emoluments from 4-2-81, till they are reinstated in their jobs.
>
> Similarly, my award in Reference case No. 64/81 is as follows :
>
> The action of the management of the Hazaribagh Area of Central Coalfields Ltd. in stopping S/Shri (1) Budhan Jaiswara, Piece-rated workman of Jharkhand Colliery and (2) Kanahi Nahako, (3) Bhagwan Muni, (4) Kaloo Behra, (5) Kartik Behra, piece-rated workers of Kedla South colliery from work is not justified. Consequently, the concerned workmen are entitled to be in the employment of the colliery from the date they were stopped from work. They are also entitled to all the back wages and other emoluments with effect from the date of stoppage of their work till they are reinstated in their jobs."

From the award it speaks clearly that the management was directed to reinstate the concerned workman who was piece-rated worker w.e.f. 4-2-81 alongwith all back wages and other emoluments from that date. I have carefully considered the judgement and no where from it I find that the concerned workman agitated that he was not piece-rated worker while he was dismissed from his service by the management. It is seen from the judgement that the concerned workman was stopped from his service w.e.f.4-2-81 while they were working as piece-rated worker on the allegation of impersonator. Therefore, onus is on the concerned workman to establish that he was Clerk Grade-III while he was stopped from his service by the management w.e.f. 4-2-81. The concerned workman in support of his claim relied on the document marked as Ext. W-2 and W-3. From the document marked as Ext. W-2 it transpires that the concerned workman was authorised by the Manager, Kedla Underground Project to work as Munshi at Mine No. 1 w.e.f. 1-3-80. From the document marked as Ext. W-3 it transpires that vide order dated 11/12-8-80 the Dy. Personnel Manager, Charhi issued an Office Order relating to regularisation of the listed workmen to the posts against each w.e.f. 1-6-80. The name of the concerned workman, according to this list, is appearing in serial No. 36. As per Office Order it transpires that the concerned workman will be paid difference of wages of Clerk Grade-III till 31-10-80 from 1-6-80. There is no order to the effect that the service of the concerned workman was regularised as Clerk Grade-III from the time-rated Category-I. As there was an order issued by the management for payment of difference of wages of Clerk Grade-III in favour of the concerned workman for a period of only four months, there is no scope to say that his service was regularised.

Learned Advocate for the concerned workman submitted in course of extending his argument that the management out of mistake did not regularise the scale of Grade-III in favour of the concerned workmen, though from the order it is evident that the service of the concerned workman was regularised in Clerk Grade-III. Learned Advocate for the management, on the contrary, raising strong objection to the submission of the learned Advocate for the concerned submitted that as vide Ext. W-2 the concerned workman was authorised to work as Munshi in the underground and exerted higher responsibility, difference of wages was paid to him for the period when he exerted such higher responsibility. Authorisation of any workman cannot be considered and also be treated as promotion. NCWA has clearly pointed out how a workman in clerical grade-III can be appointed. Until and unless a workman comes out successfully in interview/test there is no scope for any workman of category-I to get his promotion to a cadre post of Clerk Grade-III. Therefore, relying on the authorisation letter there is no scope to draw any conclusion that the concerned workman was promoted to the post of Munshi which is a cadre post in Clerk Grade-III from time-rated worker of category-I. However, it is clear that as the concerned workman by order of the management performed the job of higher responsibility they paid him difference of wages for that period and that has duly been ventilated in the Office Order marked as Ext. W-3. It is the contention of the management that the concerned workman after that award passed by my predecessor-in-office was reinstated in service and posted at T.R. Mine No. 1. That order was passed in the year 1983. The present industrial dispute was raised by the sponsoring union in the year 1996. It is, therefore, clear that for more than a decade the concerned workman without raising any dispute in support of his claim kept himself Sum. It is further seen that by Office Order dated 7/13-8-84 the management upgraded the job of Munshi from Grade-III to Grade-II w.e.f. the date they exercised the option form. The list shows that names of 24

workmen including the name of the concerned workman. If the claim of the concerned workman is taken into consideration that after 31-10-80 he discharged his duty as Munshi in that case definitely he exercised the option form in view of the Office Order mentioned above and in that case definitely his case could be considered by the management. It is the contention of the learned Advocate for the concerned workman that the management illegally did not list the name of the concerned workman in the Office Order but except claiming so the sponsoring union have failed to produce a single scrap of paper to show that on the said date when the office order was issued the concerned workman was very much incharge of Munshi Clerical Gr. III. If the claim of the sponsoring union is taken into consideration in that case there is sufficient reason to draw conclusion that the management committed gross illegality in not considering the case of the concerned workman for his upgradation in Grade-II. It is really curious to note that the concerned workman inspite of such gross in justice as alleged did neither submit any representation to the management nor raised any industrial dispute. On the contrary, after keeping himself silent for more than a decade he raised the present industrial dispute with a view to get his relief though it is evident that he is now discharging his duty as Mining Sirdar. I have carefully scrutinised all the materials on record and I find no hesitation to say that the concerned workman excepting the documents marked as Exts. W-2, W-3, W-4 and W-5 have failed to produce any authentic paper to show that he continuously discharged his duty as Munshi Grade-III and inspite of discharging his duty in that capacity the management ignored regularising him in that grade. On the contrary, from the document marked as Ext. W-3 it has been exposed clearly that for a very limited period the concerned workman was entrusted with higher responsibility to discharge his duty as Munshi and for that reason the management paid him the difference of wages to him.

Therefore, considering all the aspects I find no hesitation to say that the concerned workman has intentionally raised the industrial dispute knowing fully well that his claim was not correct and it was so done with some ulterior motive. In the circumstances I find no hesitation to say that the concerned workman is not entitled to get any relief in view of his prayer.

6. In the result, the following award is rendered.

The demand of United Coal Workers Union that Rameshray Saw is entitled for promotion in clerical Grade-III w.e.f. 1-6-80 and in clerical Grade-II w.e.f. 7-8-84 is not justified. Hence, the concerned workman is not entitled to get any relief in view of his prayer.

B. BISWAS, Presiding Officer

शुद्धिपत्र

नई दिल्ली, 6 अगस्त, 2004

का.आ. 2228.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, नई दिल्ली के पंचाट (संदर्भ संख्या 62/97) के शुद्धिपत्र को प्रकाशित करती है, जो कि केन्द्रीय सरकार द्वारा 9-6-2004 को अधिसूचित किया गया था।

[सं० एल.-12012/73/96-आई आर (बी. II)]

सी. गंगाधरण, अवर सचिव

CORRIGENDUM

New Delhi, the 6th August, 2004

S.O. 2228.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes a Corrigendun to the award award (Ref. No. 62/97) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank India and their workman, which was notified by the Central Government Vide Notification dated on 9-6-2004.

[No. L-12012/73/96-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL: CUM LABOUR COURT-II, RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE NEW DELHI

P.O. : R.N. Rai I.D. No. 62/97

In the matter of :

Sh. Chitrangad Rao

Versus

Bank of India

CORRIGENDUM

The word **'SUSPENSTION'** in the concluding para may be replaced with **DISMISSAL".**

Dt. 4-8-2004 R. N. RAI, Presiding Officer

नई दिल्ली, 5 अगस्त, 2004

का. आ. 2229.—राष्ट्रपति, श्री एन.के. राजगुरू मोहापात्रा को 30-07-2004 (पूर्वाह्न) से तीन वर्षों की अवधि के लिए केन्द्रीय सरकार औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय, भुवेनश्वर के पीठासीन अधिकारी के रूप में नियुक्त करते हैं।

[सं० ए-11016/1/2003-सी एल एस-II]

वाई. पी. सहगल, अवर सचिव

New Delhi, the 5th August, 2004

S. O. 2229.—The President is pleased to appoint Sh. N.K. Rajguru Mohapatra as Presiding Officer Central Govt. Industrial Tribunal-cum-Labour Court Bhubaneshwar, w.e.f. 30-7-2004 (FN) for a period of three years.

[No. A-11016/1/2003 CLS-II]

Y.P. SEHGAL, Under Secy.

नई दिल्ली, 19 अगस्त, 2004

का. आ. 2230.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ढ़) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 434 दिनांक 9-2-2004 द्वारा यूरेनियम उद्योग जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 19 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 15-3-2004 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ढ़) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 15-9-2004 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. सं. एस-11017/9/97-आई. आर. (पी.एल.)]

जे.पी. पति, संयुक्त सचिव

New Delhi, 19th August, 2004

S.O. 2230.—Whereas the Central Government having been satisfied that the public interest so required that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 434 dated 9-2-2004 the service in Uranium Industry which is covered by item 19 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 15th March, 2004;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947 the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a period of six months from the 15th September, 2004.

[F. No. S-11017/9/97-IR(PL)]

J.P. PATI, Jt. Secy.

नई दिल्ली, 24 अगस्त, 2004

का. आ. 2231.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ढ़) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 509 दिनांक 17-2-2004 द्वारा नाभिकीय ईंधन और संघटक, भारी पानी और संबंध रसायन तथा आणविक ऊर्जा जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 28 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 26-2-2004 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ढ़) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 26-8-2004 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. सं. एस-11017/3/97-आई आर (पी एल)]

जे.पी. पति, संयुक्त सचिव

New Delhi, 24th August, 2004

S.O. 2231.—Whereas the Central Government having been satisfied that the public interest so required that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 509 dated 17-2-2004 the service in the Industrial Establishments manufacturing or producing Nuclear Fuel and Components, Heavy Water and Allied Chemical and Atomic Energy which is covered by item 28 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 26th February, 2004;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947 the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a period of six months from the 26th August, 2004.

[F. No. S-11017/3/97-IR (PL)]

J.P. PATI, Jt. Secy.

नई दिल्ली, 26 अगस्त, 2004

का. आ. 2232.—जबकि, मैसर्स स्पीक जेल इंजिनीयरिंग कंस्ट्रक्शन लिमिटेड (टीएन/26529) (इसके पश्चात् उक्त प्रतिष्ठान के रूप में उल्लिखित) ने कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (इसके पश्चात् उक्त अधिनियम के रूप में उल्लिखित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अन्तर्गत छूट के लिए आवेदन किया है;

और जबकि, केन्द्रीय सरकार के विचार में अंशदन की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में उल्लिखित की तुलना में कर्मचारियों के लिए कम अनुकूल नहीं है और कर्मचारी अन्य भविष्य निधि लाभों का भी फायदा उठा रहे हैं कुल मिलाकर इसी प्रकार के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में उक्त अधिनियम के अन्तर्गत अथवा कर्मचारी भविष्य निधि स्कीम, 1952 (इसके पश्चात् उक्त स्कीम के रूप में उल्लिखित) के अन्तर्गत प्रदान किए जा रहे लाभों की तुलना में कम अनुकूल नहीं हैं;

अत: अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और समय-समय पर इस संबंध में केन्द्रीय सरकार द्वारा उल्लिखित शर्तों के अध्यधीन एतद्द्वारा 1-1-1991 से उक्त प्रतिष्ठान को उक्त स्कीम के सभी उपबंधों के प्रचालन से अगली अधिसूचना जारी होने तक छूट प्रदान करती है।

[फा. सं. एस-35015/19/2003-एस. एस.-II]

संयुक्ता राय, अवर सचिव

New Delhi, 26th August, 2004

S.O. 2232.—Whereas M/s. Spic Jel Engineering Construction Ltd., (TN/26529) (herein after referred to as the said establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (herein after referred to as the said Act);

And whereas, in the opinion of the the Central Government the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Fund Scheme, 1952 (herein after referred to as the said scheme) in relation to the employees in any other establishment of similar character;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-1-1991, until further notification.

[F. No. S-35015/19/2003-SS-II]

SANJUKTA RAY, Under Secy.

नई दिल्ली, 27 अगस्त, 2004

का. आ. 2233.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 01 सितम्बर, 2004 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

"जिला तिरूवनन्तपुरम के नेयाटिनकरा तालुक में राजस्व ग्राम-पारशाला के अधीन आने वाले क्षेत्र।"

[फा. सं. एस-38013/60/2004-एस. एस.-I]

के. सी. जैन, निदेशक

New Delhi, 27th August, 2004

S.O. 2233.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st September, 2004 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely :—

"Areas comprising the Revenue Village of Parassala in Neyyattinkara Taluk in Trivandrum District."

[F. No. S.-38013/60/2004-SS-I]

K. C. JAIN, Director

नई दिल्ली, 27 अगस्त, 2004

का. आ. 2234.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतदद्वारा 01 सितम्बर, 2004 को उस

तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबन्ध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

"जिला कन्याकुमारी के तालुक अगस्तीस्वरम में राजस्व ग्राम—वेम्बनूर एवं नीन्डकरै-क तथा तालुक—तोवलै में एरचकुलम एव तिरूपतिसारम के अन्तर्गत आने वाले क्षेत्र।"

[फा. सं. एस-38013/56/2004-एस. एस.-I]

के. सी. जैन, निदेशक

New Delhi, 27th August, 2004

S.O. 2234.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st September, 2004 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamil Nadu namely :—

"Areas comprising the Revenue Villages of Vembanoor & Neendakarai-A of Agastheeswaram Taluk; and Erachakulam & Thirupathisaram of Thovalai Taluk in Kanyakumari District."

[F. No. S-38013/56/2004-SS-I]

K. C. JAIN, Director

नई दिल्ली, 27 अगस्त, 2004

का. आ. 2235.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतदद्वारा 01 सितम्बर, 2004 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

"जिला नालगोण्डा के बीविनगर मण्डल में राजस्व ग्राम—राधवपुरम के अन्तर्गत आने वाले क्षेत्र।"

[फा. सं. एस-38013/57/2004-एस. एस.-I]

के. सी. जैन, निदेशक

New Delhi, 27th August, 2004

S.O. 2235.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st September, 2004 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

"Areas comprising the Revenue Villages of Raghavapuram in Bibinagar Mandal in the District of Nalgonda."

[F. No. S-38013/57/2004-SS-I]

K. C. JAIN, Director

नई दिल्ली, 27 अगस्त, 2004

का. आ. 2236.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतदद्वारा 01 सितम्बर, 2004 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबन्ध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

"जिला कोयम्बतूर में तालुक तिरूपुर के राजस्व ग्राम—मुतनम्पालैयम, तालुक अविनासी के कुप्पाण्डम्पालैयम, वेट्टुवपालैयम, चिन्नारिपालैयम तथा करूमापालैयम, तालुक पल्लडम के मैलम्पट्टी तथा तालुक मैट्टुपालेयम के चिक्कारमपालैयम, जडयमपालैयम एवं तेक्कम्पट्टी आदि के अन्तर्गत आने वाले क्षेत्र।"

[फा. सं. एस-38013/61/2004-एस. एस.-I]

के. सी. जैन, निदेशक

New Delhi, 27th August, 2004

S.O. 2236.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st September, 2004 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamil Nadu namely :—

"Areas comprising the Revenue Villages of Muthanampalayam of Tiruppur Taluk; Kuppandampalayam, Vettuvapalayam, Chinnaripalayam & Karumapalayam of Avinashi Taluk; Mylampatti of Palladam Taluk and Chickarampalayam, Jadayampalayam & Thekkampatti of Mottupalayam Taluk in Coimbatore District."

[F. No. S-38013/61/2004-SS-I]

K. C. JAIN, Director

नई दिल्ली, 27 अगस्त, 2004

का. आ. 2237.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतदद्वारा 01 सितम्बर, 2004 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 (धारा 76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं) के उपबन्ध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

"जिला तिरूवल्लूर में पूणमली तालुक के राजस्व ग्राम—गुडुपाक्कम एवं तिरूवल्लूर तालुक के राजस्व ग्राम—अडिगतूर, पोलिवाक्कम, अरणवायल तथा तोडुकाडु के अन्तर्गत आने वाले क्षेत्र।"

[फा. सं. एस-38013/58/2004-एस. एस.-I]

के. सी. जैन, निदेशक

New Delhi, 27th August, 2004

S.O. 2237.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st September, 2004 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Tamil Nadu namely :—

"Areas comprising the Revenue Villages of Gudapakkam of Poonamallee Taluk and Adigathur, Polivakkam, Aranvoyal and Thodukadu of Thiruvallore Taluk in the District of Thiruvallore."

[F. No. S-38013/58/2004-SS-I]

K. C. JAIN, Director

नई दिल्ली, 27 अगस्त, 2004

का. आ. 2238.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतदद्वारा 01 सितम्बर, 2004 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

"जिला रंगा रेड्डी के कुतबुल्लापुर मण्डल में राजस्व ग्राम—दोम्मर पोचमपल्ली, बहदुरपल्ली, बोरमपेट, नागलूर, शंभुपुर, मल्लमपेट, बच्चुपल्ली एवं नामदारनगर के अन्तर्गत आने वाले क्षेत्र।"

[फा. सं. एस-38013/59/2004-एस. एस.-I]

के. सी. जैन, निदेशक

New Delhi, 27th August, 2004

S.O. 2238.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st September, 2004 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

"Areas comprising the Revenue Villages of Dommara Pochampally, Bahadurpally, Bowrampet, Nagloor, Shambupoor, Mallampet, Bachupally and Namdarnagar of Qutubullapur Mandal in Ranga Reddy District."

[F. No. S-38013/59/2004-SS-I]

K. C. JAIN, Director

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